



State Freedom and International Relations

Patrick Herron

Thesis submitted for assessment with a view to
obtaining the degree of Doctor of Political and Social Sciences
of the European University Institute

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Abstract

Much of both the academic and practical discourse about international politics implies conceptions of states as, in one way or another, free or unfree. We talk about state autonomy, suggesting states have the capacity to deliberate and determine their own destiny. We discuss constraints on state action and debate the legitimacy of interference in the affairs of other states. We also measure and assess state development, suggesting a potential in states for self-realisation. The concept of sovereignty, and the belief that this principle demands the rejection of the subjection of states to higher authority, frames much of our thinking about world politics. Such issues lie at the heart of much of our theorising of IR: in realism's security dilemma, for example; in liberal debates about humanitarian intervention; or in constructivist analyses of the relationship between sovereignty and state identity. It is a central contention of this thesis that conceptions of state freedom are present in the deep analytical and normative presumptions of much of the theory of international relations. The conceptions of state freedom that inform such theorising remain, however, for the large part implicit. The principal purpose of this thesis is to remedy the absence of sustained, explicit consideration of the concept of state freedom, and it does this by historically excavating ideas about what it means for states to be free.

While explicit discussion of the freedom of states was prominent in the 17th and 18th century, as the state's position as the locus of political authority was gradually consolidated the terminology of state freedom diminished in salience. Ideas of state freedom did not disappear, however; they continued to be expressed in analogous areas of international discourse. Drawing on philosophical ideas about individual freedom, this thesis presents a theoretical approach to making such implicit ideas visible. It makes the case for a 'grammar' of freedom, which, it is argued, enables one to distinguish ideas about freedom from other species of ideas but does not prejudice their substance. The thesis then employs this grammar to identify ideas of state freedom in international debate surrounding three cognate concepts: non-intervention, sovereign equality and self-determination. Through analysis of the arguments made by states-people about these three concepts, the thesis articulates a number of evolving ideas about what it means for states to be free and unfree. That historical investigation uncovers both a strong normative preference among practitioners of international relations for the freedom of states and sharp disagreement about what constitutes that freedom. The thesis argues that the contestation surrounding ideas of state freedom have played an important role structuring legitimate relations of control between states. The thesis concludes by reflecting on the implications of these observations for the approaches of theorists of international relations to the key concepts of sovereignty and the state.

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I would like to dedicate this thesis to my sister, Frances, whose fortitude is inspiring.

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Introduction

When Sweden formally entered the Thirty Years War in 1630, King Gustav II Adolph issued a manifesto denouncing the hegemonic aspirations of the Holy Roman Empire. In it he contrasted hegemony with the freedom of polities and argued that had he not “bestirred himself” the Empire would have “pushed her ambition and arms to the most distant kingdoms and provinces, which [had] hitherto preserved and maintained their liberty”.¹ When that bloody conflict was eventually resolved in 1648, the Treaty of Munster declared the “Lords states General of the United Netherlands and the respective provinces thereof” to be “free and sovereign states”.²

Around a hundred years on from the Peace of Westphalia, the lawyer and diplomat Emmerich de Vattel, in his hugely influential treatise *The Law of Nations*, argued that “sovereign states are to be considered as so many free persons living together in the state of nature”. At the core of his approach to the law of nations was the idea that “the body of the nation, the state, remains absolutely free and independent with respect to all other men, all other nations, as long as it has not voluntarily submitted to them”.³

In the mid-19th century, at the height of the influence of the balance of power as an institution of interstate order, Lord Palmerston, twice British Foreign Secretary, asserted the doctrine to mean simply “that a number of weaker states may unite to prevent a stronger one from acquiring a power which should be dangerous to them, and which should overthrow their independence, their liberty, and their freedom of action”.⁴

In 1949, in its Essentials of Peace resolution, the General Assembly of the United Nations (UN) called upon “every nation” to “refrain from any threats or acts, direct or indirect, aimed at impairing the freedom, independence or integrity of any State, or at fomenting civil strife and subverting the will of the people in any State.”

¹ Kalevi Jaakko Holsti, *Peace and War: Armed Conflicts and International Order, 1648-1989* (Cambridge University Press, 1991), xiv, p. 27.

² ‘Treaty of Westphalia’, ed. by The Avalon Project, http://avalon.law.yale.edu/17th_century/westphal.asp.

³ Emmerich de Vattel, *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury* (Indianapolis: Liberty Fund Inc, 2008).

⁴ Martin Wight, ‘Balance of Power and International Order’, in *The Bases of international order: essays in honour of C.A.W. Manning*, ed. by Alan James (London; New York: Oxford University Press, 1973), p. 101.

In these quotes, which span the modern period of international relations, King Gustav, Vattel, Lord Palmerston and the UN General Assembly all stress the “freedom” or “liberty” of states. They are exemplary of a way of thinking about states that is often suggested by the public discourse of international relations. When we discuss human freedom we often talk of the ability of people to make choices, set and pursue goals and desires, and the social (or internal) constraints and inhibitions they face. Likewise, everyday discussion of world politics often starts from a conception of the state as independent; an agent with the capacity to determine its own political form and pursue its self-set interests and goals. We also talk of obstacles to this state autonomy, either through a lack of sufficient development, the interference and control of other states, or the authority of supra-national institutions.

Similarly, in the academic discourse of international relations, a great deal of theoretical discussion is suggestive of ideas state freedom. In realism's security dilemma, for example, the autonomy of states from higher authority means states are self-reliant with respect to their security, leading to predictions about how they will behave. Much liberal debate about humanitarian intervention is animated by disagreement as to the appropriate limits to the freedom of action states enjoy within their own borders and the contours of legitimate inter-state interference. Constructivist writings on the relationship between agency and structure rest on an understanding of the state as a purposive actor with the capacity to make choices and set its own direction, but which is embedded within a structure of social constraints.

Thinking about states as, in some sense, free entities seems to be a deep assumption in modern international relations. Robert Jackson goes so far as to claim:

[The] cardinal value [embedded in the community of states] is of course independence which is the foundation on which the entire scheme rests. Virtually all the principles and practices of a sovereign states-system derive either directly or indirectly from this desideratum. The logic of such a system is the international expression of liberalism: sovereign states are the equivalent of free individuals.⁵

Conceptions of state freedom play important roles in the theoretical arguments of various approaches to studying international politics. In one of the most influential books in the discipline of International Relations (IR), *Theory of International Politics*, Kenneth Waltz understands the

⁵ Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge University Press, 1993), pp. 9–10.

international realm as a “world of free states” whose principal aim is to maintain their autonomy. From this starting point Waltz posits that “states are insecure in proportion to the extent of their freedom”, a supposition that leads to a conception of the international system as a ‘self-help’ world and generates important predictions about state behaviour.⁶

A number of IR scholars also identify the freedom of states as a notable idea in the modern history of international relations. In his discussion of the balance of power as an institution of international order, Martin Wight notes a link between balance of power and the freedom of states across various historical periods. When discussing the system of city states of Renaissance Italy, Wight claims that “Historically the demand for freedom” came before the explicit institution of the balance of power. This demand “combined external freedom, or independence, with internal freedom, the antithesis of despotism”.⁷ In the 18th and 19th centuries, Wight asserts, “a distribution of power was the condition of international freedom” and “the guarantee of ‘the liberties of Europe’”.⁸ He also claims that “desire for the liberty of the parts precedes the desire for the order of the whole” of the states system. The balance of power developed as an institution to reconcile “international order” with state “independence”. The alternatives would have been “disorder” and “insecurity” or “a universal empire, with general loss of freedom”.⁹ Wight also generalised this relationship between the balance of power and the freedom of polities, asserting that “the postulate that there is an international society generally entails” the belief that “the tranquillity of international society and the freedom of its members require an even distribution of power”.¹⁰

Despite these examples, however, almost no existing IR scholarship considers state freedom in an explicit and sustained way. When academics do use the terms freedom or liberty in relation to states, it is very rarely accompanied by conceptual reflection; we are introduced to a concept that appears to be important, but offered only a glimpse of its historical and theoretical role.

This thesis addresses the lack of scrutiny of state freedom and argues that it is an important concept which illuminates hitherto unexplored aspects of international politics. I argue that state freedom is worthy of scholarly attention for two reasons. First, and most importantly, ideas about the freedom of states have constituted a significant element of the ideational structure of international relations

⁶ K. N. Waltz, ‘Theory of International Politics’, 1979, pp. 111–112.

⁷ Wight, ‘Balance of Power and International Order’, p. 87.

⁸ Wight, ‘Balance of Power and International Order’, p. 100.

⁹ Wight, ‘Balance of Power and International Order’, p. 101.

¹⁰ Martin Wight, ‘Western Values in International Relations’, in *Diplomatic investigations: essays in the theory of international politics*, ed. by Herbert Butterfield and Martin Wight (London: Allen & Unwin, 1966), p. 103.

in the modern period. They have informed the thinking of states-people about how inter-state relations ought to be conducted and have, in this way, played an important role in conditioning state behaviour. The second reason is that implicit conceptions of state freedom lie at the heart of much academic thinking about international relations. Although IR scholars rarely explicate or scrutinise conceptions of state freedom, they are nonetheless identifiable in the deep analytical and normative presumptions of much theory of international relations. The concept of state freedom, then, has both empirical and theoretical implications. Exploring these implications is the purpose of this thesis, which seeks to answer the following research question: *How have understandings of state freedom evolved, and how have they conditioned international relations over the past three centuries?*

The evanescence of state freedom

In the early modern period—the period in which the modern state was becoming recognisable as a theoretical and empirical entity—the explicit language of the freedom of states was notable. However, as the state’s position as the exclusive locus of political authority was consolidated, the prominence of the terminology of state freedom diminished as ideas about state freedom were absorbed into related discourses.

As alluded to in the quotes that began this introduction, the Thirty Years War—which is often taken to usher in the modern period of international relations—was fought, in part, in the name of the freedom of the nascent states of Europe. Sweden, one of the principal belligerents, claimed the “veritable main and fundamental cause” of the conflict to be “the restoration of Germany and of the princes and estates of the Empire to their ancient liberty and condition”.¹¹ France likewise justified their involvement in the conflict on the grounds of their desire to “preserve the liberty” of the German states, encouraging them to “convert the servitude in which they had hitherto found themselves into a permanent freedom”.¹²

As the 17th century progressed and the actor threatening hegemony shifted from the Holy Roman Empire to France, the discourse of the liberty of states developed and was “constitutive” of a balance of power discourse that “appropriated liberty as the supreme moral and political value and

¹¹ Andreas Osiander, *The States System of Europe, 1640-1990: Peacemaking and the Conditions of International Stability* (Oxford; New York: Clarendon Press ; Oxford University Press, 1994), p. 44.

¹² Osiander, p. 37.

applied it to European international relations”.¹³ As both Richard Devetak and Andreas Osiander have shown, aggressive French absolutism provoked a discourse defending the “liberty of Europe”, which was understood as a collective goal constituting the liberty of each individual state.¹⁴ This liberty consisted in not being subject to (that is to say, free from) the arbitrary rule of a Europe-wide French monarchy.¹⁵ In the 18th century, the association between state liberty and resistance to hegemony endured, with the language of the “liberty of Europe” accompanying both the War of Spanish Succession and the Peace of Utrecht which settled it in 1713.¹⁶ Although in the early 18th century the term ‘state’ was not yet used to denote a territorial sovereign state in the way we understand it today,¹⁷ the Peace of Utrecht nonetheless exemplified the continuing evolution of the European system into one of “self-determining” autonomous actors of equal status, “none of which were entitled to dictate to the others”.¹⁸

The peace settlement that ended the War of Spanish Succession was an enduring one, ushering in a period of relative European stability that was not profoundly shaken until Napoleon’s expansionist wars at the turn of the 19th century. As the relatively peaceful 18th century progressed, and as the status of the states of Europe as independent, sovereign entities was entrenched, the explicit discourse of the freedom of states receded. For at least the past 200 years, the terminology of state freedom, or state liberty,¹⁹ has been rare in both the practical and academic discourse of international relations. We readily describe the state as ‘free to’ perform certain actions, or embody certain institutional forms, when discussing rightful state behaviour in specific contexts. However, the term ‘free’ is not commonly applied to states as a predicate to describe their condition, or state of being. Discussion of what that predicate might *mean* when used to describe states has been even rarer.

Nonetheless, the central claim of this thesis is that ideas about state freedom have remained significant in international relations and that their neglect by IR theorists ought to be rectified. A key claim of this thesis is that despite a relative absence of discussion of the term state freedom, *ideas* of state freedom—beliefs about what constitutes freedom for states—have, nonetheless, persisted and been subject to intense and repeated debate. The linguistic terms that characterise this debate have

¹³ Richard Devetak, “‘The Fear of Universal Monarchy’: Balance of Power as an Ordering Practice of Liberty’, in *Liberal world orders*, ed. by Timothy Dunne and Trine Flockhart (Oxford University Press, 2013), p. 126.

¹⁴ Osiander, p. 121.

¹⁵ Devetak.

¹⁶ Osiander, p. 120.

¹⁷ Osiander, p. 107.

¹⁸ Osiander, p. 120.

¹⁹ For the purposes of this thesis I make no distinction between the terms ‘freedom’ and ‘liberty’.

often, however, been *cognates* of freedom which, although distinct from freedom in their meaning and conceptual history, are in some sense analogous to, or overlap with, freedom. The distinction between the presence of an idea and the use of a particular signifier to denote it will be discussed at length in Chapter Two, as will the understanding of freedom that is employed in this thesis. At this juncture I will only note how commonplace it is to implicitly distinguish between ideas and terms in everyday discourse. For example, if I were to make an argument about people living in a condition lacking the financial means to provide for their minimal physical and emotional needs, my argument could be easily identified as one about poverty. This would be so even if I did not explicitly nominate the term. In Chapters Three to Five I demonstrate at length that there have been important moments of contestation over the meaning of state freedom that have played out with relatively little use of the signifier ‘freedom’.

The decline in prominence of the terminology of state freedom from the late 18th century onwards is reflected in IR scholarship. Studies of the early modern period have identified the importance of the development of the states as in some sense free. Osiander, for example, identifies the principle of “autonomy” as the “leitmotiv” of the Peace of Westphalia,²⁰ while Philpott describes the development of sovereignty as a story of the “liberation of states” from transnational and hierarchical forms of authority.²¹ Beyond historical studies of the early modern period, however, explicit reference to state freedom is piecemeal, unreflective and underdeveloped. As alluded to above, a conception of states as, in some sense, free entities undergirds a variety of theoretical approaches to the study of international relations. Nonetheless, that conceptual foundation has not been given sustained, self-conscious consideration. The absence of the terminology of freedom and liberty from the practical discourse of international politics means that scholars have not directed their attention to developing a conceptual approach to state freedom or to investigating the possibility that ideas about state freedom may have played an important role in the practice of international relations beyond the early modern period.

Illuminating Ideas of State Freedom

In making an argument about how ideas of state freedom have been implicated in the conduct of modern international relations, this thesis is organised into five chapters. In Chapter One I survey the

²⁰ Osiander, p. 54.

²¹ D. Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton University Press, 2001), p. 153.

existing academic literature, defending my claim that although the idea of state freedom has not been the subject of sustained and explicit study, it is nonetheless implied by many of the major theoretical approaches to the study of IR. I argue realist, liberal, constructivist and English School approaches share a conception of the state as an autonomous actor with the capacity to be self-directing. The autonomy of the state is, however, conditioned or constrained by virtue of the fact that it exists embedded within a system of autonomous states. I show that the nature of the constraints that states face, and their implications for state autonomy, are important issues addressed by all four paradigms.

Having reviewed the existing literature, in the subsequent chapters I turn my attention to investigating the role of ideas of state freedom in practice, which constitutes the main focus of the thesis. In Chapter Two I address the principal methodological and theoretical issues raised by this study. In Chapters Three to Five I employ those insights in an analysis of historical moments of debate about state freedom.

Chapter Two makes two principal arguments. The first addresses the methodological issue of studying *ideas* of freedom in the absence of the *terminology* of state freedom. I argue that ideas are distinct from the words that are used to signify them and that to fully illuminate the role that concepts play in the social world it is necessary to avoid being restricted to specific terminology. I acknowledge, however, that the absence of the terminology of freedom poses a significant methodological challenge. My purpose in this thesis is to investigate how practitioners of international relations have understood state freedom and to reconstruct the evolution of and argument over such ideas. The difficulty, therefore, is to 'see' ideas about state freedom absent the guiding light of the term freedom. Compounding this challenge is that I do not hold an *a priori* idea about what state freedom is. A key claim of this thesis is that ideas about the meaning of freedom for states may vary and evolve. To reduce state freedom to a single concept and then search for it in international discourse would thus contradict the aims and assumptions of the thesis. My approach, therefore, is to elucidate not what state freedom *is*, but rather what discussions about freedom in general have been *about*. I argue that some of the most prominent and enduring theories of the freedom of human individuals and groups have been about the *necessary conditions for agents to be self-mastering*. These three elements—agents, necessary conditions and self-mastery—do not represent an essence of freedom. Debate about freedom nonetheless tends to involve disagreement about one or more of these elements. Together, I argue, they can be seen as constituting a grammar, or form, of debate about freedom. Identifying this grammar in the practical discourse of

international relations can, I claim, help distinguish ideas about state freedom from other species of ideas without foreclosing the *meaning* of state freedom.

The second argument I make in Chapter Two is the principal theoretical argument of the thesis. Here I address the core question of how ideas of state freedom play a role in the conduct of international politics. I draw on constructivist insights about the role of ideas in world politics and argue that ideas of state freedom have constituted part of the ideational structure of international system. I suggest that the belief that states ought to be free has been a deep normative assumption in modern international relations and that this belief generates collective expectations about appropriate behaviour; because ideas about what constitutes freedom for states have external dimensions, the ways in which states control, influence and direct each other have implications for the realisation of state freedom. In this way, ideas of state freedom *structure relations of control* between states.

The way that this structuring effect of ideas of state freedom is manifest in international relations is through the politics of legitimacy. The human agents that conduct international relations have repeatedly debated and contested what makes states free and, consequently, what configurations of relations of control are legitimate or illegitimate. Chapters Three to Five are an examination of that politics of legitimacy as it has played out in a number of historical moments. My historical analysis is structured by the concepts *non-intervention*, *sovereign equality* and *self-determination*. These three principles are all analogous to freedom in some respect but, unlike state freedom, the terminology of non-intervention, sovereign equality and self-determination have been highly prominent in international debate. I use these concepts, therefore, in order to guide me to moments of debate about state freedom. It is within debates about these three cognate terms that I identify and reconstruct ideas about what constitutes freedom for states and demonstrate their structuring effect on legitimate relations of control between states.

Chapters Three to Five do not present full histories of, respectively, non-intervention, sovereign equality and self-determination. Rather each chapter focuses on discrete historical junctures at which those concepts have been the subject of international debate. The purpose of my historical analysis is to reveal significant ideas of state freedom and in accordance with that aim the historical moments on which I focus were selected on the basis that they; a) yielded extensive debate and discussion regarding the concept in question, and b) that they were significant in the history of international relations. Selecting moments where the cognate concepts were contested and debated directs me to examples of states defending their positions, reasoning and arguing about the concept

in question. This makes them rich sources of the discursive statements through which ideas of state freedom are expressed. Moreover, the times at which states discuss at length the meanings and implications of principles of international conduct are often moments of significant import in the evolution of international relations. The periods and events focused on in this thesis are times at which representatives of states have consciously scrutinised prevailing modes of conducting international politics; the rules that govern relations between states and the practices that constitute them have been assessed and contested, and attempts have been made to reform and transcend them in the service of the normative aspirations of states. Rather than bilateral relations, I analyse cases where numerous states have discussed non-intervention, sovereign equality and self-determination in conferences, congresses and other multilateral forums. This directs me to debates that have significance for the international system as a whole, rather than idiosyncratic cases. I do not claim that this method reveals all ideas of state freedom present in the international system at any given time. However, by analysing principles that are both related to freedom and significant in international relations, and by focusing on important moments of contestation surrounding those principles, I am able to identify what I claim to be important ideas of state freedom. Some of the historical moments I examine are notable international conferences, at which representatives of many states came together to discuss matters of international order and lay down rules for future conduct. In some cases, I examine a longer historical period but focus on significant meetings and congresses of states that took place within that period. The primary material from which I reconstruct debates and build up a picture of ideas of state freedom are the things that state representatives said at or, sometimes, about these meetings. The sources I rely on are, therefore, the records of speeches made and debates that took place at such meetings and conferences, written official and diplomatic material associated with them and, occasionally, the subsequent written accounts and memoirs of those that took part in them. These primary materials are often supplemented by secondary sources to give context to the debates on which I focus.

Through the lens of debates about non-intervention, Chapter Three examines relations of *domination* between states, exploring how ideas of state freedom are implicated in relations of control that transgress boundaries of sovereign authority in the international system. I examine two historical moments of prominent debate about non-intervention. The first is debates about intervention in the Concert of Europe in the period 1818-22. I identify two ideas of state freedom; the *Dynastic Idea* and the *Self-Help Idea*. In the Dynastic Idea, held by the states of the Holy Alliance, the agency of the state was identified with historically-legitimated sovereigns, and the self-mastery of states was understood to consist of sovereign control over popular power. This idea of state

freedom legitimated a general right of dynastic sovereigns to intervene, in concert, to quell popular uprisings across Europe. This idea of state freedom, and the intervention it legitimised, was challenged by Great Britain, which displayed the Self-Help Idea of state freedom. In the Self-Help Idea, the state was understood as a unique moral order possessing its own individual will. Self-mastery for states was the freedom to translate their will into action, unhindered by the military domination of, or political obligation to, other states. This idea of state freedom legitimated intervention by a single state to counter a direct threat to its security and essential interests, but challenged the idea of a general alliance that had the right to intervene whenever a sovereign monarch was faced with domestic unrest.

In Chapter Three I also examine changing ideas about intervention that were prominent in the western hemisphere in the second half of the 19th and early 20th century. In these debates I identify two further ideas of state freedom. In the *Paternalistic Idea* of state freedom, held by the US and some of its Latin American allies, the self-mastery of states consisted of self-control in the sense of self-limitation and acting responsibly. The Paternalistic Idea legitimated intervention on the grounds of maintaining order and furthering the development of 'civilisation'. The Paternalistic Idea was contested by the majority of Latin American states, who put forward a *Categorical Idea* of state freedom. In the Categorical Idea, a state was self-mastering if it was free to determine its own way of life, absolutely free of external interference. This idea of state freedom delegitimated the practice of intervention and demanded an unconditional right to non-intervention.

In Chapter Four I analyse debates about sovereign equality in order to examine the role played by ideas of state freedom in structuring relations of *authority* in international relations. I begin by laying out some intellectual groundwork, reviewing the classic articulation of the doctrine of the equality of states as expounded by Emmerich de Vattel in his *The Law of Nations*. I show how Vattel's conception of states as equal was linked with an understanding of the state as a moral person, bound by obligation to natural law but naturally free to obey the dictates of its own conscience. I then go on to examine two historical cases in which discussion of the equality of states was highly prominent: first, the second Hague Peace Conference of 1907; and second, negotiations over the creation of the UN that took place between the allied powers in San Francisco in 1945.

I argue that the negotiations in The Hague over the creation of a Permanent Court of Arbitral Justice were in part a debate between the Paternalistic and Categorical Ideas of state freedom. I show that the Paternalistic Idea informed proposals by the great powers to weight judicial representation

according to a ranking of states. The Categorical Idea of state freedom held by small states meant that this proposal was resisted on the grounds that inequalities in the rights of states opened the door to relations of domination between states. I argue that the incompatibility of the Paternalistic and Categorical idea in terms of the relations of authority that they legitimated contributed to the failure of states at the Hague Peace Conference to reach agreement on the constitution of the Permanent Court.

I then show that at the San Francisco conference in 1945 the agreement reached regarding the creation of the UN was facilitated by a shared understanding of state freedom which echoed, but also transformed, both the Categorical and Paternalistic Ideas. In this idea of the freedom of states—the *Civil Idea*—self-mastery was understood in a similar way to the Categorical Idea; self-mastery meant being able to set one's own direction free from the domination of other states. The Civil Idea, however, holds that for this self-mastery to be meaningfully realised states must be subject to the authority of international law backed up by the coercive capacity of materially strong states. This idea of state freedom legitimated the institutionalisation of limited hierarchy between states in the UN, provided that the special rights of big powers were checked by the participation of all states.

In Chapter Five, I examine the dynamic relationship between self-determination and state freedom, and show how those ideas were implicated in relations of *dependence* in the international system. I examine two moments of debate: first, the 'Wilsonian moment'²² of post-World War I reconstruction and, second, debates about self-determination conducted in the UN in the 1950s. In the first section I argue that US President Woodrow Wilson's understanding of self-determination was informed by the Paternalistic Idea of state freedom. First encountered in Chapter Three, in Chapter Five I explore further the Paternalistic Idea, highlighting the disconnect in that idea between the ideal of self-mastery and the means through which it is realised. The ideal of self-mastery in the Paternalistic Idea was one of responsible, democratic states governing themselves as they saw fit. Not all peoples were equally prepared for self-government, however, and the aim of promoting this self-mastery legitimated great power influence ranging from occasional intervention through to the continuous colonial administration of overseas territories.

In the UN in the 1950s, the idea that freedom could be advanced through political dependency was contested by states exhibiting an *Independence Idea* of state freedom. In this idea, states were understood as complexes of racial, cultural and geographical characteristics. These states could be

²² Erez Manela, *The Wilsonian Moment : Self-Determination and the International Origins of Anticolonial Nationalism*: (Oxford University Press, 2007).

free only if they were politically independent and free to determine their own way of life. Dependent peoples living in colonial and Trusteeship territories were thus understood as states-in-waiting and their freedom depended on their independence being granted without conditions of fitness for self-government. The Independence Idea of state freedom contributed, therefore, to a momentous delegitimation of colonial relations of dependence.

Taken as a whole, Chapters Three to Five constitute a narrative of the evolution of some of the more prominent ideas about state freedom to have formed part of the international normative structure in the past 300 years. They show that throughout that period there has been a significant normative preference for state freedom among the practitioners of international relations. They demonstrate that modern states have made repeated claims for, and in support of, freedom, but that there has been profound disagreement about what constitutes that freedom and what are the necessary conditions for its realisation. Competing ideas of state freedom have, at various times, butted up against one another causing tension within the system, informing different and incompatible positions on how international relations of control in international politics ought to be configured. Sometimes ideas about state freedom have resisted inter-state interference; at other times, they have justified it. The uneasy coexistence of different ideas about what makes states free and how to realise that freedom has repeatedly been a dynamic force prompting and shaping international change and evolution.

I conclude by reflecting on the implications that illuminating the process of the evolution of ideas of state freedom has for how we understand the state and the international system. I suggest that prevailing ideas about what makes states free constitute states as particular agents, placing them in particular positions and roles with respect to other states and shaping their privileges and prerogatives. I situate that discussion in the context of the dominant conception of the state as a *sovereign* entity arguing that the conceptual lens of state freedom reveals structural relationships of power and authority that go beyond those implied by the principle of sovereignty.

Chapter One

State Freedom in International Relations Theory: Autonomy and Constraint

Introduction

Discussion of the concept state freedom—the concept at the heart of this thesis—has been largely muted in the academic discipline of International Relations (IR); existing literature offers no sustained and explicit exploration of how the freedom of the state relates to the practice of international relations. The lack of a sustained scholarly analysis of state freedom does not, however, mean that it is entirely absent from IR theory. In this chapter I review its treatment in literature from four of the most prominent paradigms in the study of international relations—realism, liberalism, constructivism and the English School. I do so in order to support two central points; first, that conceptions of state freedom are theoretically implied by each of these important paradigms in international relations theory; and second, that the theoretical understandings of the freedom of the state implied in the existing literature have not been made explicit in a sustained way. By demonstrating that state freedom is important to and underdeveloped in the main ways we think about international politics I hope to both introduce the idea of state freedom and provide justification for analysing it at length.

I do not approach this review with a fixed understanding of 'state freedom' specifically, or 'freedom' more generally.²³ Rather, I consider alternative ways of approaching these concepts opened up or foreclosed by different theoretical starting points and reflect on their implications for building a theoretical approach to studying state freedom. In order to structure my discussion, however, I do broadly conceive of freedom of the state to refer to what the state (understood as an agent) is *constrained* or *enabled* to *do* or *be*. I also keep in mind that in most political philosophical understandings of freedom, the constraining and enabling conditions pertinent to a discussion of freedom are thought to be *social* rather than 'natural'.

²³ My own approach to these concepts will be discussed at length in Chapter Two.

Realism and state freedom

Structural Realism

As William Wohlforth has noted, one can claim without too much hyperbole that “the academic study of international relations is a debate about realism”.²⁴ The influence of this paradigm on the discipline has been deep and enduring, and, although a broad church, Kenneth Waltz is perhaps the one figure whose intellectual impact looms largest over IR. It is with his structural (or neo-) realist theory of international politics that I begin my literature review. I begin with Waltz’s theory not only because of the impact it has had on the field but also because structural realism represents a difficult case for my claim that concepts of state freedom are implicit in the prominent ways of thinking about international relations. As an avowedly structural theory of international politics, Waltz’s realism excludes unit-level theories, suggesting an approach in which, as John M Hobson has put it: “the state is exclusively derived from the systemic reproduction requirements of the anarchical state system”.²⁵

If Hobson is correct, and the Waltzian state is understood purely in terms of systemic constraints, one could question my assertion that an implicit conception of state freedom is pervasive in IR theory and the case for a sustained analysis of that freedom would be weakened. In this section I make the opposing argument: that even in Waltz’ *Theory of International Politics* there is such a conception, albeit a relatively thin one.

There is no doubt that Waltz’s focus is the structure of the international system, rather than the nature of the units inhabiting it. In *Theory of International Politics*, Waltz goes to great lengths to repudiate ‘reductionist’ theories of international relations which provide general explanations of IR based on characteristics of states or their interactions.²⁶ The correct approach to formulating a general theory of international politics, he argues, must be to “leave aside, or abstract from, the characteristics of units, their behaviour, and their interactions”.²⁷ What we are left with when we do so, according to Waltz, are purely system-level variables which define the structure of a political system: the ordering principle by which units are arranged, the formal functional differentiation of

²⁴ William Wohlforth, ‘Realism’, in *The Oxford Handbook of International Relations*, ed. Christian Reus-Smit and Duncan Snidal (Oxford University Press, 2008), 131.

²⁵ J. M Hobson, *The State and International Relations* (Cambridge Univ Pr, 2000), 19.

²⁶ Kenneth N Waltz, *Theory of International Politics* (Addison-Wesley Publishing, 1979) especially chapters 2 and 4.

²⁷ *Ibid.*, 79.

those units, and their distribution of capabilities. Because states are like-units in terms of their function for Waltz, however, the second of these variables (the only one that relates to the properties of states) “is not needed in defining international-political structure” and drops out of the picture.²⁸ Hence, Waltz’s structural realist theory of international politics does not require—and some would say precludes²⁹—a theory of the state.³⁰ Rather, the state appears to be, as Hobson argues, “exclusively derived from the systemic reproduction requirements of the anarchical state system”;³¹ pressure from this anarchical system, rather than characteristics of states themselves, constitutes the central explanation of the character of international politics.

Despite its emphasis on the anarchic ordering principle of the international system, Waltzian realism does, however, suggest a number of elements relating to state freedom. Although he gives theoretical priority to system structure, privileging it as an explanatory variable, Waltz is explicit in denying structure *agency* in international politics. Structure may have causal priority in Waltz’s theory, but its influence is exerted only indirectly, through the major agents in international politics: states.³² Though Waltz’s theory emphasises international structure, his understanding of that structure necessitates a conception of states as autonomous agents; it is through the “co-action of self-regarding units” that international-political systems are formed for Waltz—they are “individualist in origin, spontaneously created, and unintended”.³³

In Waltzian structural realism states are conceived of as wholly free of social constraints, and it is this unconstrained state freedom that is generative of the systemic pressures central to structural realism in two ways. First, preserving autonomy—in the sense of not being subject to the authority of another agent—is the primary interest of states, and the pursuit of this goal shapes state behaviour.³⁴ Second, it is because states attempt to preserve autonomy in a “world of free states” that the systemic pressures identified by Waltz are generated.³⁵ A world of free states is a self-help world with no external agent ensuring an individual state’s survival, and it is therefore a risky world. Should states wish to preserve their autonomy (which Waltz asserts they do), the dangers and risks of self-help constrain states, limiting their freedom of action and making their behaviour predictable.

²⁸ Ibid., 93.

²⁹ A. E. Wendt, ‘The Agent-Structure Problem in International Relations Theory’, *International Organization* 41, no. 03 (1987): 335–70.

³⁰ Waltz, *Theory of International Politics*, 72.

³¹ Hobson, *The State and International Relations*, 19.

³² Waltz, *Theory of International Politics*, 73.

³³ Ibid., 91.

³⁴ Ibid., 107.

³⁵ Ibid., 111.

The insecurity inherent to anarchy means that, in order to survive, states must follow the survival strategies available. Hence Waltz expects states to a) replicate the behaviour of other successful states, and b) balance against stronger states in the system.

The anarchic system is not a determining force, however, and states, for Waltz, remain free to ignore its influence. Nonetheless, structural realism predicts that states which do so will lay themselves open to dangers and will suffer.³⁶ Ultimately, such states will be selected out of the system, thus reproducing the same international political structure. For Waltz, then, the freedom of the state involves a trade-off with security. States “are insecure in proportion to the extent of their freedom. If freedom is wanted, insecurity must be accepted.”³⁷ In reasoning in this way, Waltz abstracts up from a tradition of thought on individual freedom that has been prominent in the work of social contract theorists and echoes the ideas of earlier realists such as John H Herz.³⁸ Strongly critical of ‘idealist nationalist’ thought, Herz rejected the position of idealists who held nationalities to possess the same fundamental rights as man, and who theorised that “once...freedom had been achieved in a system of self-determining nation-states, there would no longer be any reason or justification for international friction and war”.³⁹ The effect of an absence of interference and oppression of states was not peace, according to Herz, but rather the security dilemma and “a vicious circle of security and power accumulation”.⁴⁰ A similar logic is also applied by later Realist authors who have relaxed Waltz’s highly formal understanding of anarchy. Realist scholar David Lake sees hierarchies throughout the international system based on a social contract between ‘ruler’ and ‘ruled’.⁴¹ In this contract states, having ceded elements of their sovereignty, accept restraints on their behaviour in return for order and security. This mode of thinking parallels the Hobbesian domestic freedom problematic in which liberty, understood as the absence of interference, must be ceded to political authority in order to enjoy both security and (a transformed) liberty.

³⁶ Ibid., 118.

³⁷ Ibid., 112.

³⁸ According to Thomas Hobbes, for example, in the state of nature humans are unfettered in a state of absolute freedom. However, because each person has the capacity to kill (by strength or by wit) every other person, humanity also exists in a state of intolerable insecurity. By forming a covenant to create a sovereign, individuals cede their liberty in return for the security that is provided through living in a ‘Common-Wealth’; security is provided by the state in return for obedience, and freedom consists of the ‘silence of the laws’. ‘Natural liberty’ has been traded for ‘civil liberty’. Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge University Press, 1996), chap. 21.

³⁹ ‘Idealist Internationalism and the Security Dilemma’, in John Herz, *The Nation-State and the Crisis of World Politics: Essays on International Politics in the Twentieth Century* (New York: D. McKay, 1976), 77.

⁴⁰ Ibid., 73.

⁴¹ David Lake, *Hierarchy in International Relations* (Ithaca N.Y.: Cornell University Press, 2009), 3.

We have seen, then, that contrary to what one might expect, even parsimonious, structural realism, contains an implicit conception of state freedom. This conception, moreover, is important to Waltz's core theoretical arguments; both the autonomy of states and their autonomy-preserving behaviour are key drivers of the structural constraints that generate the theoretical expectations of neorealism. However, a number of qualities of Waltzian realism also severely circumscribe the reflections on state freedom that can be opened up by that paradigm. Waltz's theory adds weight to the suggestion that state freedom may be an important concept that could add to our understanding of international politics, however, by focusing on general theory, and rejecting explanations of international politics that include unit-level characteristics, structural realism forecloses any sustained reflection on state freedom. In his attempt to achieve structural consistency, Waltz is led to the contradictory position of recognising the importance of state agency in international relations, but expunging it from his theory.

Waltz's writings suggest that in his understanding of international politics, the mutual interaction of system and units is important in shaping international behaviour. On the one hand, individual state agency is crucial to generating the character of the international system. This is so because system structure is defined in terms of the arrangement of its units, implying it is these units (autonomous states) which constitute it. On the other hand, however, it is only through the influence of the system itself—that is to say, the imperatives of self-help—that states act to produce it, implying the priority of international structure. It is this tension at the heart of neorealism that has led to two opposing readings of Waltz: a systemic reading which sees states as product, not productive,⁴² and an agent-centric reading in which states pre-exist the system.⁴³ That both of these readings are in some sense 'correct' results from the fact that Waltz acknowledges the significance of the co-constitution of states and structure but refuses to theorise it; by exclusively focusing on the third image of international relations he is unable to coherently combine his insights with a theory of the influence of the second image (the state). The autonomous state is axiomatic for Waltz meaning, as Alexander Wendt has noted, system structure can only be conceived of as constraining, rather than generating, states as agents.⁴⁴ An investigation into the social conditions which constitute states as free or not free to do and be a range of actions and conditions of character is, therefore, precluded by structural realism. Moreover, emphasis put on the distribution of capabilities in structural realism's theoretical schema leads realists to privilege material, rather than ideational factors in

⁴² J. G Ruggie, 'Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis', *World Politics: A Quarterly Journal of International Relations*, 1983, 261–85.

⁴³ Wendt, 'The Agent-Structure Problem in International Relations Theory', 342.

⁴⁴ Ibid.

shedding light on world politics. Ideas and norms tend not to be given much weight by realists,⁴⁵ *a priori* prejudicing against an investigation into the possibility that ideas about state freedom may have been significant in structuring international relations.

Classical Realism

Waltz's refusal to admit a theory of the state into his theory of international politics is not representative of all realist writings, and it was precisely this characteristic of classical realism that *Theory of International Politics* positioned itself against. In Hans Morgenthau's *Politics among Nations*⁴⁶—criticised by Waltz for its reductionism—the state plays a much more prominent role.

The differences between Morgenthau and Waltz should not be overemphasised; precursors of many of the latter's main arguments can be found in *Politics Among Nations*. As in Waltz, the international system is seen by Morgenthau as anarchic and dangerous, leading to systemic imperatives that mould state behaviour. States are seen as autonomous and individualistic, and the anarchic structure of the international system leads to balance of power politics; balance of power "insures the freedom of one nation from domination by the other".⁴⁷ In acting to maintain their autonomy when faced with systemic pressures, Morgenthau's states both balance and emulate, like Waltz's. Unlike Waltz, however, Morgenthau brings domestic variables firmly into the picture: crucial in shaping state behaviour are a) what a state's *interest* is with respect to the balance of power (does it have imperialistic or status quo interests),⁴⁸ and b) how states *perceive* the interests of other states.⁴⁹

The addition of perceptions of decision-makers as a determinant of international political behaviour is indicative of a second face of Morgenthau's classical realism, an aspect that is at odds with Waltzian structuralism. Whereas in Waltzian realism the state is assumed to be free both from domestic constraints and international restraints,⁵⁰ its freedom in Morgenthau's realism is variable according to both second and third image environments. Unlike Waltz, for whom the international

⁴⁵ See, for example, Lake, *Hierarchy in International Relations*, xi.

⁴⁶ Hans Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, 6th ed. (Random House USA Inc, 1988).

⁴⁷ *Ibid.*, 194.

⁴⁸ *Ibid.*, chap. 4–5.

⁴⁹ This is a characteristic of classical realists that has been picked up by realism's contemporary neoclassical adherents. See G. Rose, 'Neoclassical Realism and Theories of Foreign Policy', *World Politics* 51, no. 1 (1998): 152.

⁵⁰ As noted above, states are free to ignore systemic constraints even though structural realism predicts they will suffer as a result.

system is reproduced unintentionally by egoistic state behaviour, Morgenthau sees the possibility of the international environment being consciously constructed by its main actors. According to Morgenthau, the precariousness of power politics engenders bulwarks against its dangers, in the form of “the normative orders of morality, mores and law”,⁵¹ and unlike Waltz he does not prejudice against this normative backdrop having significance for international, as well as domestic, politics. He describes the ‘Aristocratic International’ of the 17th and 18th centuries as forming an “ethical system” that imposed its own restraints on international relations, distinguishable from power politics and international structure.⁵² The balance of power politics of the 17th to 19th centuries was accompanied by a system of aristocratic norms and standards rooted in a sense of common civilisation. While for Waltz, such factors would be dismissed as reductionist or mere process, for Morgenthau they constitute a full-blown, and variable, “structure of international society”.⁵³

Such a conception marks a radical difference between Morgenthau and structural realists, such as Waltz and Robert Gilpin. While Gilpin is less parsimonious than Waltz, admitting domestic factors into his schema as intervening variables, both he and Waltz start from a continuity problematic which seeks to explain the enduring—rather than changing—nature of international relations.⁵⁴ The notion that an ethical system could have a profound influence on international political structure would be anathema to them both. Morgenthau’s recognition of the possibility of a significant international normative environment implies a very different conception of the freedom of the state to that of Waltz. While the restraints imposed by an ethical system on state power would seem to limit state freedom in the Waltzian sense (that is, in the sense of freedom from obligation, or restraint on the exercise of power) they also suggest a more profound freedom of states to shape their international environment. This type of freedom—to purposively shape the international realm in significant ways—is unambiguously denied states by structural realism, in which the only possibility for structural change Waltz sees is if the majority of states lose their interest in survival. The freedom problematic of Waltz (abstracted up from Hobbes) is thus inverted in Morgenthau. Rather than being trapped in a situation where their freedom begets insecurity, states use their freedom to shape the international normative environment as a buffer against the insecurity of balance of power politics.

⁵¹ Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, 243.

⁵² Ibid., 260–264.

⁵³ Ibid., 264.

⁵⁴ Robert Gilpin, *War and Change in World Politics* (Cambridge University Press, 1983).

The agency of states at the international level is not permanent, however, but contingent. According to Morgenthau, it is only in the presence of certain *domestic* facilitating conditions that states are afforded agency *vis-à-vis* the international system. The Aristocratic International was able to construct such an ethical edifice by virtue of its being a *monarchical* system. The cultural result of this system was a degree of homogeneity resulting from regular contact, family ties, common language (French), and common customs.⁵⁵ The structural result (in diplomatic, rather than international political, terms) was stability, with the individuals responsible for foreign affairs often remaining in their posts for long periods. Both of these elements made possible the development of a common morality that “imposed its restraints upon the day-by-day operations of foreign policy”. The enforcement mechanism for these restraints was not coercive authority (which the tradition of moral scepticism shared by Hobbes and Waltz would deem necessary for curtailing the freedom of agents), but rather non-authoritative social sanction: “A violation of [Louis XV’s] moral obligations, as they were recognized by his fellow monarchs for themselves, would set in motion not only his conscience but also the spontaneous reactions of the supranational aristocratic society, which would make him pay for the violation of its mores with a loss of prestige that is, a loss of power”.⁵⁶ This is a qualitatively different kind of socialisation to that described by Waltz—which is dictated solely by power and survival rather than conscience—and opens up the possibility of theoretical insights spanning the second and third images of IR.

Morgenthau argued that by his time, however, the ethical system of the Aristocratic International had undergone a process of “dissolution”, restraining foreign affairs “no longer”. He identified the reason for the collapse of this normative environment as “the democratic selection and responsibility of government officials”.⁵⁷ As the domestic political structure evolved—through the expansion of individual political rights—control over state affairs became increasingly dispersed throughout society, leading to a higher turnover of officials and the diffusion of a nationalist, rather than internationalist, morality. The loss of state freedom of action with respect to its domestic constituency, therefore, reduced its agency with respect to the construction of the international environment: “the fluctuation of policymakers in international affairs and their responsibility to an amorphous collective entity has far-reaching consequences for the effectiveness, even for the very existence, of an international moral order”. This transformation, for Morgenthau, made an international system of moral restraints into “a fiction”.⁵⁸

⁵⁵ Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, 260.

⁵⁶ *Ibid.*, 264.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*, 265.

We can see from the above analysis that the conception of state freedom implicit in *Politics among Nations* is different, and slightly thicker, from that found in the theory of Kenneth Waltz. The latter implicitly conceives of state freedom as freedom from coercive authority, and sees that freedom restrained only by the imperatives of survival in an anarchic system. In Morgenthau's work, on the other hand, one can infer an understanding whereby, though being subject to (moral) constraints, state freedom is augmented through the ability of that unit to significantly alter its external environment. One can also read in Morgenthau a sensitivity to the impact that domestic structures have on external state freedom, though the potential link between individual freedom (in the form of democratic self-government) and state freedom is not a concern of his and thus not pursued.

To a degree, however, Morgenthau's work is incoherent and contradictory. He does not find a way to combine the two aspects of his theory, and these aspects—a systemic aspect that requires the state to adapt to its external environment, and an agent-centric aspect in which states have the freedom to shape the international system through ethical orders—remain in tension. Morgenthau's commitment to more readily recognisable realist convictions (such as asserting the inevitability of balance of power politics⁵⁹ and the autonomy of the political from the moral realm⁶⁰) seem to undercut the possibility of a thorough reflection on the dynamic relationship between, on the one hand, state freedom and, on the other, an international normative milieu.

Liberalism and state freedom

As I have shown in the section above, Kenneth Waltz's structural realism implicitly conceives of states as free in the sense that they are subject to neither higher authority nor societal constraints. If states wish to preserve that freedom, however, they are highly constrained by the structural condition of anarchy, a condition which reproduces itself by selecting out states that do not act in accordance with systemic pressures. The classical realism of Morgenthau, on the other hand, gestures toward the possibility that states can also be constrained by societal norms and pressures. While in one sense societal norms are constraining on states, Morgenthau's observance of a *social* international world beyond the individualism and autonomy of states hints at an idea that it is

⁵⁹ Ibid., 187.

⁶⁰ Ibid., 13.

through these social and moral constraints that states can shape their structural environment and be ‘free’ in a deeper sense.

The optimism that states can develop their international relations in progressive ways—which Morgenthau ultimately pulls-back from—is a key element of liberal thinking about international relations. Although liberals accept the realist postulate that a world of sovereign states is an anarchic system, as Michael Doyle asserts “their anarchy is different” from the anarchy seen by realists.⁶¹ Rather than inevitable and recurring patterns of conflict and competition, liberals are cautiously optimistic about states’ capacity to engage in cooperative behaviour and shape their social environment. Crucial to this agential power of states with respect to the international structure is the creation of rules and institutions which on the one hand constrain states’ freedom of action, but on the other hand create conditions of possibility otherwise unavailable to states. In this section I argue that when applied internationally, liberal political theory exhibits an important tension between a conviction that states are or ought to be free and the belief that this freedom must, and can be, be transformed in order for liberal values to be realised. Attempts to cast liberal international relations theory as a purely analytic endeavour, consistent with a neo-positivist conception of science, have obscured the importance of a conception of state freedom to liberal approaches to international relations. Nonetheless, I argue, implicit notions of state freedom inform liberal IR theories through their philosophical heritage and are manifested in their analytic approach.

International Liberal Theory

Liberalism is a famously broad and often inconsistent theoretical tradition which has addressed an abundance of philosophical, political and economic questions. Despite the impressive range of liberal theory, however, the realisation of human freedom is conspicuous as perhaps the central liberal concern. The freedom of the individual is often claimed to be one of, if not the, core ethical commitment that distinguishes liberalism from other theoretical traditions,⁶² and the realisation of that freedom is a political imperative that liberal theorists have repeatedly attempted to satisfy. Animating such thought is a problematic that recognises freedom as both essential to human social life but also perilous to it. Despite the charge of utopianism that is often levelled at liberalism, at the most basic level most liberals do not, *pace* Richard Cobden, assume a natural harmony of interests

⁶¹ Michael W Doyle, *Ways of War and Peace: Realism, Liberalism, and Socialism* (New York: Norton, 1997), 211.

⁶² M. W Doyle, ‘Kant, Liberal Legacies, and Foreign Affairs’, *Philosophy & Public Affairs*, 1983, 206.

between people, but rather the “social unsociability” of human beings.⁶³ This Kantian concept suggests that humans are both inclined to enter social relations but nonetheless engage in socially destructive behaviour. The ambiguous character of human nature—both good and evil, rational and irrational—means that if humans are not subject to restraints, their conflictive and selfish traits will make the realisation of human freedom impossible. By the same token, however, this ambiguity makes progress possible, with the rational element of human nature facilitating the development of human relations beyond the destructive.

In liberal theory, crucial to the realisation of both cooperation and human freedom is the development of the state. An important liberal concern has been the recognition that state power has the potential to thwart human flourishing and that it must, therefore, be checked and limited by particular forms of domestic constitution. Nonetheless, it is society’s submission to a higher political authority that makes possible the transcendence of the harmful effects of anarchy between individuals. The tragic effects of natural, unconstrained freedom can only be overcome by its transformation into civil freedom constituted and guaranteed by the state.⁶⁴ This crucial but ambiguous role played by the institution of the state in domestic liberal theory has significant implications when liberal thinking is directed towards international relations.

It has been averred that liberal internationalism has been “little more than the projection of domestic liberalism on a world scale”,⁶⁵ and it is certainly true that some of the main concerns and contributions of liberalism are mirrored beyond state borders. One of the principal ways in which liberal thought is rearticulated on the level of relations between political communities is the upward transposition of the problems associated with human relations in the absence of authority. As Immanuel Kant explained, the solution to humans’ flawed sociability at one level, recreated the same problem at the level of inter-state relations:

The same unsociableness which forced men to [form a Commonwealth], becomes again the cause of each Commonwealth assuming the attitude of uncontrolled freedom in its external relations, that is, as one State in relation to other States; and consequently, any one State must expect from any other

⁶³ Idea For a Universal History With A Cosmopolitan Purpose, in I. Kant, *Kant: Political Writings*, ed. H. S Reiss (Cambridge Univ Pr, 1991), 44.

⁶⁴ “Even if we imagine men to be as benevolent and law-abiding as we please, *the a priori* rational idea of a non-lawful state will still tell us that before a public and legal state is established, individual men, peoples and states will never be secure against acts of violence from one another, since each will have his *own right to do what seems right and good to him*, independently of the opinion of others” (Metaphysics of Morals, in *ibid.*, 137).

⁶⁵ Stanley Hoffmann, ‘The Crisis of Liberal Internationalism’, *Foreign Policy*, no. 98 (1 April 1995): 160.

the same sort of evils as oppressed individual men and compelled them to enter into a Civil Union regulated by law.⁶⁶

Freedom, then, once again poses problems for liberals. The liberal understanding of the natural condition of inter-state relations is similar to the realist; freedom begets insecurity. This is a position that has been shared by both classical liberals and analytical liberals that accept the neo-realist anarchy problematic.⁶⁷

Rather than holding freedom and insecurity in a zero-sum relationship, however, liberals are more optimistic as to the possibility of transforming the nature of the international system in a way that provides both security and a transformed, rather than truncated, state freedom. What constitutes such a transformation and how it can and should be effected are not, however, settled questions in liberal theory.

The Kantian solution to the problem of the conflict and violence procured by freedom appears to be the same as the domestic solution. Just as with individuals, states should give up their natural freedom to follow their “own desires” in order to obtain a more profound freedom made possible by obeying law:

There is only one rational way in which states coexisting with other states can emerge from a lawless condition of pure warfare. Just like individual men, they must renounce their savage and lawless freedom, adapt themselves to public coercive laws and thus form an international state (*civitas gentium*) which would necessarily continue to grow until it embraced all the peoples of the earth.⁶⁸

However, although the subjection of states to public laws may be the ideal solution for Kant, the nature of the state precludes the possibility of coercing states into this position. The state is not a mere container for individual freedom. Rather, by virtue of making civil freedom possible for its citizens, a state constitutes a moral order⁶⁹ and, as such, is a “moral person” in itself.⁷⁰ As a moral person governed by *law* rather than nature, a state—no matter how imperfect—represents an

⁶⁶ Immanuel Kant, cited in Ian Clark, *The Hierarchy of States*, Cambridge Studies in International Relations (Cambridge University Press, 1989), 54.

⁶⁷ Michael Doyle describes the realist model of the insecurity of states—an account he finds “plausible”—as one in which the state is “radically independent; neither bounded nor protected by international ‘law’ or treaties or duties, and hence, insecure” (Doyle, ‘Kant, Liberal Legacies, and Foreign Affairs’, 218).

⁶⁸ Immanuel Kant, cited in A. Hurrell, ‘Kant and the Kantian Paradigm in International Relations’, *Review of International Studies* 16, no. 03 (1990): 189.

⁶⁹ As opposed to a state of Nature.

⁷⁰ See the second preliminary article to Perpetual Peace, in Kant, *Political Writings*.

improvement on the lawless amorality of the state of nature and thus ought not be coerced or compromised. Although there is a latent cosmopolitanism in Kantian thinking,⁷¹ it is only through the uncertain midwife of sovereign consent that such international moral progress can be realised. Although the liberal problematic of domestic anarchy is transposed up to inter-state relations, the liberal solution to domestic anarchy cannot be similarly transposed. The moral and legal regime embodied by states is particular rather than universal, and therefore imperfect, but is an achievement that ought not to be disregarded. States are thus valuable institutions that ought, in one way or another to enjoy freedom internationally.

By virtue of constituting orders of right within their borders, states possess rights in the international realm beyond those borders, and principal among such rights is the right to non-intervention. As Kant put it, a state is not a “piece of property” but rather a “society of men whom no one else has any right to command or to dispose except the state itself”.⁷² Alternatively, as Michael Doyle more recently articulated:

The basic postulate of liberal international theory holds that states have the right to be free from foreign intervention. Since morally autonomous citizens hold rights to liberty, the states that democratically represent them have the right to exercise political independence. Mutual respect for these rights then becomes the touchstone of liberal international theory.⁷³

The idea that states are imbued with a moral value and therefore are (or ought to be) both self-determining and free from outside interference⁷⁴ has been justified on various grounds. Sometimes the position is defended on pragmatic grounds by the claim that sovereignty and non-intervention provide some level of order in international relations, without which violence and conflict would be intolerable. For others, states are more explicitly held to “provide collectively for the purposes of individuals”.⁷⁵ RJ Vincent attributes such a position to the influential 19th century liberal JS Mill and, among contemporary thinkers, Michael Walzer. According to Vincent, the positions of Mill and Walzer begin “with the idea that states, like individuals, are to be treated as free persons, the pursuit of whose purpose requires the non-interference of others”.⁷⁶ According to this idea—which

⁷¹ See generally A. Linklater, *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era* (University of South Carolina Press, 1998).

⁷² Article 2 of Perpetual Peace in Kant, *Political Writings*.

⁷³ Doyle, ‘Kant, Liberal Legacies, and Foreign Affairs’, 213.

⁷⁴ “Liberal statism”, as this position has been called (Richard Falk, quoted in R. J. Vincent, *Human Rights and International Relations* (Cambridge University Press, 1986), 113).

⁷⁵ *Ibid.*, 115.

⁷⁶ *Ibid.*

Charles Beitz calls the “idea of state autonomy”⁷⁷—the “function of the state” is “to protect” the “common life” of its citizens “against the outside world”.⁷⁸ Although many states fail to fulfil this function, the belief that states ought to be ‘treated as if they were free persons’ is often robust enough to resist empirical realities at odds with the logic that supports it.

One of the ways in which the idea of state autonomy is defended even in the face of oppressive state actions is the claim that freedom must be grasped not given. Mill famously argued that the “attempt to establish freedom by foreign bayonets is a solecism in terms”;⁷⁹ if a people “have not sufficient love of liberty to be able to wrest it from merely domestic oppressors”, their freedom will be neither “real” nor “permanent” if it is granted by intervening powers.⁸⁰ The freedom of states from intervention is a sturdy rule with true state freedom only achieved through indigenously-won self-government.

These liberal arguments for the inviolability of states against outside interference illuminate the problems associated with coercing states into a renunciation of their ‘savage and lawless freedom’. Although liberals are often staunch defenders of pluralism⁸¹ they also hold certain values—such as individual freedom, justice or human rights—as being universal. Any commitment to *promote* such universal values internationally is in tension with a commitment to pluralism, which even if it is not blind to the behaviour of other states must at least be tolerant of it.

This tension in liberal thought between pluralism and universalism is in part a product of liberalism’s ambiguous approach to state freedom. On the one hand, a ‘free state’ is one that is not dependent on another. In this sense, state freedom demands mutual respect for sovereignty and a strong norm of non-intervention. On the other hand, the connection that liberalism makes between a state and its people means that a state can only be truly free if its people are free; that is to say, if the state embodies liberal universal values, central among which is individual freedom which implies some

⁷⁷ C. R Beitz, *Political Theory and International Relations* (Princeton University Press, 1999), 69.

⁷⁸ Vincent, *Human Rights and International Relations*, 115.

⁷⁹ JS Mill, cited in Kenneth E. Miller, ‘John Stuart Mill’s Theory of International Relations’, *Journal of the History of Ideas* 22, no. 4 (1 October 1961): 505.

⁸⁰ Michael W. Doyle, ‘A Few Words on Mill, Walzer, and Nonintervention’, *Ethics and International Affairs* 23, no. 4 (1 December 2009): 4.

⁸¹ That is, the doctrine that it is for each individual (and, transposed up a level, each society) to determine their own conception of the good.

notion of self-government.⁸² This creates a moral hierarchy of states and opens up the possibility that state freedom could actually be promoted, rather than compromised by outside intervention.

Analytic Liberalism

In recent decades, mainstream liberal IR theorists have made a conscious attempt to separate liberalism from the normative tradition out of which it has grown.⁸³ In perhaps the most influential liberal contribution to IR theory Robert Keohane, in *After Hegemony*, accepts not only realism's anarchy problematic, but also the Lakatosian understanding of science that Kenneth Waltz advocates in *Theory of International Politics*. The consequence of the embracing of a neopositivist approach to scholarship means that in contrast to international liberal theory, liberal *International Relations* theory resists taking normative positions and making normative prescriptions. In Keohane's neoliberal institutionalism, then, traditional liberal questions about what states *ought* to be free to do and what kind of state is a true expression of freedom are put to one side. Analytical liberals propose liberalism to be "an approach to the analysis of social reality rather than as a doctrine of liberty".⁸⁴

Keohane's neoliberalism does, however, retain at least two characteristics of traditional liberal international thought; first, that states are autonomous and, second, that while fostering cooperation between states may be difficult, it is not impossible. This cautious optimism about the possibility of civilising the dangerous autonomy of states is a key liberal belief; even sceptical liberalism which sees pluralism as the limit of possibility for international morality rests on at least a norm of mutual toleration and respect for autonomy. Keohane accepts that "liberalism believes in at least the possibility of cumulative progress"⁸⁵ and an important aspect of his work is an exploration of the ways in which autonomous states can resist the structural constraints they face, bucking the logic of anarchy to engage in cooperative behaviour—most significantly in the form of international regimes and institutions—actively adjusting their own "policies to meet the demands of others".⁸⁶

⁸² As Michael Doyle states, the liberal state "subject to neither the external authority of other states nor to the internal authority of special prerogative held, for example, by monarchs or military castes over foreign policy." Doyle, 'Kant, Liberal Legacies, and Foreign Affairs', 208.

⁸³ Christian Reus-Smit, 'The Strange Death of Liberal International Theory', *European Journal of International Law* 12, no. 3 (2001): 573–94.

⁸⁴ Robert O. Keohane, 'International Liberalism Reconsidered', in *The Economic Limits to Modern Politics*, ed. John Dunn, Murphy Institute Studies in Political Economy (Cambridge University Press, 1990), 174.

⁸⁵ Ibid.

⁸⁶ Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, N.J.: Princeton University Press, 1984), 12.

Keohane sees states as “separate and typically self-interested units of action”,⁸⁷ which act according to a bounded rationality.⁸⁸ These rational, egoistic actors are not completely unconstrained and Keohane is interested in an “analysis of the constraints and opportunities that face states as a result of the international system in which they are embedded”.⁸⁹ Reminiscent of Waltz’s autonomy-preserving states, for Keohane “governments put a high value on the maintenance of their own autonomy” and it is therefore “usually impossible to establish international institutions that exercise authority over states”.⁹⁰ Neoliberal institutionalist theory attempts to show, however, that given the right conditions, states are able to self-impose constraints on their action and engage in cooperative behaviour—“mutually adjust[ing]” their policies even when their interests are discordant.⁹¹ Although the principal contribution of *After Hegemony* to IR theory is to demonstrate that states can cooperate without submission to higher authority, Keohane nonetheless recognises the facilitating role hegemonic powers can play in creating international regimes.⁹² While he claims there is “little reason to believe that hegemony is either a necessary or a sufficient condition for the emergence of cooperative relationships”,⁹³ he is somewhat equivocal in the way he assesses that claim and his theory ultimately rests on “the willingness as well as the ability” of a “single state” to “lead” in order to get off the ground.⁹⁴ For the *maintenance* of cooperative regimes, however, Keohane is confident in states’ capacity to recognise that it can “make sense to accept obligations that restrain one’s own freedom of action in unknown future situations if others also accept responsibilities”. Ultimately, the “pursuit of flexibility can be self-defeating: like Ulysses, it may be better, on occasion, to have oneself tied to the mast”.⁹⁵

Although Keohane recognises the impossibility of entirely separating scholarship from the normative values that inform it,⁹⁶ his work is sharply differentiated from the international liberal theory considered above. Nonetheless, in his construction of a theory whereby states are able to transform the nature of the constraints and restraints they face while maintaining their autonomy, Keohane’s work can be seen to be informed by familiar concern with overcoming the excesses of state freedom without extinguishing it. Like Keohane’s liberal institutionalism, the ‘structural liberalism’ outlined by Daniel Deudney and John Ikenberry characterises liberal world order as states successfully engaging

⁸⁷ Keohane, ‘International Liberalism Reconsidered’, 174.

⁸⁸ Keohane, *After Hegemony*, chap. 7.

⁸⁹ Keohane, ‘International Liberalism Reconsidered’, 174.

⁹⁰ Keohane, *After Hegemony*, 88.

⁹¹ *Ibid.*, 12.

⁹² *Ibid.*, chap. 3–4.

⁹³ *Ibid.*, 31.

⁹⁴ *Ibid.*, 39.

⁹⁵ *Ibid.*, 17.

⁹⁶ See, for example, *ibid.*, 10.

in institutions and practices that reconcile state autonomy with the dangers associated with it; modifying the structural condition of anarchy that autonomy itself generates. Unlike structural realists, Deudney and Ikenberry do not see a stark choice between autonomy (anarchy) and subjection (hierarchy). Rather, they observe in international relations 'liberal' ordering practices that recognise but refuse to reproduce the danger of anarchy as an international ordering principle. Practices such as "co-binding" are attempts to *constrain* states and reduce their freedom of action. Empire and hegemony (and the inherent subjection they entail) do not, however, exhaust the ways of practicing this social restraint on state behaviour; "symmetrical co-binding" is a liberal practice that "overcomes the effects of anarchy without producing hierarchy".⁹⁷ Deudney has since developed his interpretation of international institutions and ordering practices that lie between anarchy and hierarchy, describing them as "negarchy"—a negation of both hierarchy and anarchy—and identifying with them with what he terms "republican" international theory.⁹⁸ These practices of 'negarchy' are equivalent to the concern of domestic liberalism (or, often, republicanism) to avoid the twin threats to freedom of the insecurity of wild natural freedom and the despotism of central authority.

Most recently, the range of liberal international relations theory distancing itself from its philosophical forbearers and focusing on explanatory theory has been joined by the 'new liberalism' of Andrew Moravcsik. Moravcsik is keen to ground liberal international relations theory on a social scientific basis—which he sees as an essentially explanatory endeavour⁹⁹—and his central explanatory variable is the configuration of state interests in the international system.¹⁰⁰ For Moravcsik, however, the state is a mere "transmission belt" for the interests of private individuals and groups.¹⁰¹ Although states act purposively in international relations, they do so in the limited capacity of furthering the interests (that is to say, preferences) of domestic actors.

However, despite Moravcsik's attempt to separate liberal international relations theory from its normative antecedents, and his disaggregation of the state into sub-strata of interests, new liberal scholarship nonetheless displays the hallmarks of the debate about state freedom in international

⁹⁷ Daniel Deudney and G. Ikenberry, 'The Nature and Sources of Liberal International Order', *Review of International Studies* 25, no. 02 (1999): 182.

⁹⁸ Daniel Deudney, *Bounding Power: Republican Security Theory from the Polis to the Global Village* (Princeton University Press, 2007).

⁹⁹ Andrew Moravcsik, 'Liberal International Relations Theory: A Social Scientific Assessment', *Weatherhead Center Working Paper Series* 01–02 (n.d.): 2.

¹⁰⁰ *Ibid.*, 6.

¹⁰¹ Andrew Moravcsik, 'Taking Preferences Seriously: A Liberal Theory of International Politics', *International Organization* 51, no. 04 (1997): 518.

liberal theory identified above. Moravcsik's outline of a 'social scientific' liberal IR theory attempts to synthesise the explanatory insights of the liberal tradition but separate them from their ideological associations. A key strain of this revived liberal theory is what Moravcsik calls "Republican Liberalism".¹⁰² This variant of liberal theory finds explanations for state behaviour in the ways in which "domestic institutions and practices" translate sub-state preferences into policies. The significance of this is that although Moravcsik writes the state out of liberal theory as an independent *actor*, the institutional form of the state has significant causal consequence. The resulting theoretical prediction of republican liberalism is the familiar link between democracy and pacific behaviour.¹⁰³ When new liberalism is used as a guide for policy, then, not all states (or 'transmission belts') are equal, and liberal states are distinguished from illiberal states.¹⁰⁴ Ikenberry and Anne-Marie Slaughter's application of new liberal theory to contemporary world affairs constitutes a call for "*Forging a World of Liberty Under Law*", as their prescription for US national security policy is entitled.¹⁰⁵ This 'forging' of freedom takes the form of creating a world of "mature liberal democracies", through military intervention if necessary.¹⁰⁶ This new liberal project, then, is a particularly assertive intervention into the liberal debate between pluralism and universalism—a debate which, as we have seen, is in part a debate about state freedom.

Constructivism and state freedom

Whereas realists and liberals share a great deal of common ground in what they see as the natural condition of relations between states, perhaps the core claim of constructivists is to dispute the very notion of 'naturalness' in the social world. While liberals see a degree of mutability in the international realm and a limited flexibility in the definition of state interests, a basic constructivist insight is that the very identities which inform the interests of social actors and their relationships are shaped by socially constructed meanings and understandings. While many (though not all)¹⁰⁷ constructivists would accept the proposition that the international system is anarchic, they would

¹⁰² Ibid., 530–33.

¹⁰³ Ibid., 532.

¹⁰⁴ Gerry J Simpson, 'The Ethics of New Liberalism', in *The Oxford Handbook of International Relations*, ed. Christian Reus-Smit and Duncan Snidal (Oxford University Press, 2008), 259.

¹⁰⁵ G. John Ikenberry and Anne-Marie Slaughter, *Forging a World of Liberty Under Law: U.S. National Security in the 21st Century* (Princeton, N.J.: Woodrow Wilson School of Public and International Affairs, Princeton University, 2006).

¹⁰⁶ Simpson, 'The Ethics of New Liberalism', 264.

¹⁰⁷ Ian Hurd, 'Constructivism', in *The Oxford Handbook of International Relations*, ed. Christian Reus-Smit and Duncan Snidal (Oxford University Press, 2008), 308–9.

reject the attendant realist claim that this formal condition determines the nature of states' relationships. Anarchy, in Alexander Wendt's famous phrase, "is what states make of it".¹⁰⁸

To say that anarchy is what states make of it is not the same as the liberal optimism that states can modify the dangerous effects of anarchy; it is to say that if insecurity is associated with anarchy it is a socially created institution rather than a necessary corollary of a lack of central authority.¹⁰⁹ That does not mean, however, that states are free to transform the social world into whatever form they like; the process of the creation of meaning that an absence of central authority has for states is an example of one of constructivists' core ontological claims; that agents and structures are mutually constitutive.¹¹⁰ This claim leads constructivists to hold a sophisticated position on the way that the state is constrained and enabled as an actor in world politics; on the freedom of its action, the freedom of its will, and the ways in which it is affected by shared beliefs about what states ought and ought not be able to do and to be.

According to Wendt, the 'problem' of how to conceptualise the relationship between agents and structures stems from two 'truisms' about social life: "1) human beings and their organizations are purposeful actors whose actions help reproduce or transform the society in which they live; and 2) society is made up of social relationships, which structure the interactions between these purposeful actors".¹¹¹ These truisms pose a problem for Wendt in how one ought to conceptualise the necessary relationship between social actors and social structures. Rather than making one of either agents or structures ontologically primitive—a criticism Wendt makes of other theoretical approaches to IR—constructivism posits the relationship between the two to be mutually constituted, or co-determined;¹¹² that is to say, it is simultaneously true that "social structures are only instantiated by the practices of agents", and that the "causal powers and interests of those agents, in their own turn, are constituted and therefore explained by structures".¹¹³

The structures that constructivists refer to are not purely material structures. While neorealism parsimoniously considers the distribution of material capacities as the structure that counts in international relations, and neoliberalism considers norms to be a constraining influence on rational

¹⁰⁸ A. Wendt, 'Anarchy Is What States Make of It: The Social Construction of Power Politics', *International Organization* 46, no. 02 (1992): 391–425.

¹⁰⁹ *Ibid.*, 395.

¹¹⁰ Christian Reus-Smit, 'Constructivism', in *Theories of International Relations*, 3Rev Ed edition (Houndmills, Basingstoke, Hampshire ; New York: Palgrave Macmillan, 2005), 197.

¹¹¹ Wendt, 'The Agent-Structure Problem in International Relations Theory', 337–8.

¹¹² *Ibid.*, 360.

¹¹³ *Ibid.*, 359.

state behaviour, constructivists suggest ideational phenomena such as norms and principles have a deeper significance for the character of world politics. *Social* or shared beliefs matter for the way in which states interpret and understand the phenomenal world. Structure is therefore understood by constructivists as the “institutions and shared meanings that make up the context of international action”.¹¹⁴

For constructivists, this social structure has important effects on states. The first effect is that states do not have an unconstrained freedom of action internationally. Social structures—including shared beliefs about right and wrong behaviour—constrain states, limiting what they can legitimately do. In this sense, by taking into consideration “*social normative structures*”, “many constructivists seek to establish...that states are far more constrained than materialist theory recognises”.¹¹⁵ Constructivists do not, therefore, see the state as free or autonomous in the same way as Waltz does.

The second, and more profound, effect is that these social structures *constitute* states as agents. Normative structures do not only constrain states in a simple way of affecting the calculations of a pre-existing rational actor. Rather, intersubjectively held beliefs—that is to say, ideational social structures—shape the identities of actors, and these identities in turn shape what states see as important and valuable. The identities and interests that inform state policy are not something internally¹¹⁶ generated by states; they are inseparable from the social environment within which they are embedded.

Despite the profound role social structure plays in the constructivist understanding of the world, states are not reducible to structural effects. While shared understandings about the world constitute the state, it is only through the practices of states that shared understandings are created and recreated. As Wendt states, “it is through reciprocal interaction that we create and instantiate the relatively enduring social structures in terms of which we define our identities and interests”.¹¹⁷ Elsewhere he affirms that “*structure exists, has effects, and evolves only because of agents and their practices*”.¹¹⁸ Although on a meta-theoretical level, constructivists have been less attentive to agency

¹¹⁴ Hurd, ‘Constructivism’, 303.

¹¹⁵ Hobson, *The State and International Relations*, 146.

¹¹⁶ By ‘internal’ I do not necessarily mean domestic; depending on how constructivists conceive of the state, ‘domestic’ influences on states can still be seen as part of the social structure external to the state as an agent in international politics.

¹¹⁷ Wendt, ‘Anarchy Is What States Make of It’, 406.

¹¹⁸ A. Wendt, *Social Theory of International Politics* (Cambridge University Press, 1999), 185 Original emphasis.

than structure,¹¹⁹ empirically constructivists have shown how agents, including states, have been able to act purposively to transform their structural environment.¹²⁰ On a theoretical level, Wendt claims that “structural change is difficult”, having a tendency to reproduce itself as a “self-fulfilling prophecy”.¹²¹ Nonetheless, contestation between the agents that constitute social structures through practicing them provides avenues for evolution and transformation. The socialisation process that shapes states’ identities is not totalising, and agents can hold “private” as well as intersubjective beliefs.¹²² Further, compared to human individuals in society, states are “much more autonomous from the social system in which they are embedded”.¹²³

Not all constructivists would agree with the way that Wendt conceptualises the state as an agent; he sees states as “people too”, by which he does not mean that we should make an analogy between states as people, but that they *are* people.¹²⁴ However, his understanding of states as “purposive actors” would be shared by many constructivists, as would the claim that although states are structures themselves in the sense of institutional ensembles, they are treated “as-if” they are agents.¹²⁵ Indeed, agency is often understood in the simple sense of an “entity” acting in a social context.¹²⁶ By treating the state as an agent, and by conceiving of agency and structure as mutually constitutive, constructivism implicitly holds the state to be a free agent that has some degree of autonomy in determining both its will and its action but is nonetheless embedded in a complex system social structures that limit and condition that autonomy. Examining how those two core elements of social life interact and mutually evolve has been a key analytic focus for constructivist scholars.

Although constructivists have not explicitly examined the ways in which social structures have constituted agents as free or not free, a significant body of scholarship exists that considers the dynamics between states and social structures that come close to ideas about state freedom. I am

¹¹⁹ Colin Wight described the state of theorising of agency in IR as ‘nothing less than a dereliction of duty’ Colin Wight, *Agents, Structures and International Relations: Politics as Ontology* (Cambridge, UK; New York: Cambridge University Press, 2006), 11.)

¹²⁰ For an argument focusing on transnational actors see M. Keck and K. Sikkink, *Activists without Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998). For an account of states as actors, see Christian Reus-Smit, *Individual Rights and the Making of the International System* (Cambridge: Cambridge University Press, 2013), chap. 5.

¹²¹ Wendt, *Social Theory of International Politics*, 339.

¹²² *Ibid.*, 188.

¹²³ *Ibid.*, 2.

¹²⁴ *Ibid.*, 215–24.

¹²⁵ On the tendency within IR to treat the state ‘as-if’ it is an agent, see Wight, *Agents, Structures and International Relations*, chap. 5.

¹²⁶ Hurd, ‘Constructivism’, 303.

referring here to literature on sovereignty, a concept by which the identity of the modern state and states system is overwhelmingly defined. Though this concept is understood in a variety of ways, in much constructivist as well as rationalist literature, sovereignty is taken to be foundational in shaping the international system. Sovereignty is also associated with autonomy, independence, and non-interference and in this way is evocative of freedom.

For rationalists, sovereignty necessitates anarchy, a structural condition which strongly proscribes state behaviour. For constructivists, sovereignty is understood as a social institution (and hence variable), but is nonetheless viewed as particularly significant in constituting the social identity of states (which, identities being relational as we have seen, shapes international relations).¹²⁷ As Cynthia Weber has noted, IR scholars often “begin by positing sovereignty as a “first” or “constitutive” principle that is the defining characteristic of the modern state system”.¹²⁸ Christian Reus-Smit also recognises this tendency, noting that constructivists assert a “tight constitutive relationship” between the organising principle of sovereignty (considered to be the primary institution of the international system), state identity and basic practices.¹²⁹ Simply put, “[s]tate and sovereignty are mutually constitutive concepts”;¹³⁰ the state is an international agent, and sovereignty is a social structure. Given the mutually constitutive relationship between structures and agents, it follows that any investigation into sovereignty is also an investigation into the state; how it is constituted as an international actor and the ways in which it is constrained and enabled by its social context. It is for this reason that, for constructivists, “[o]ne of the most important analytical challenges for scholars of international relations is to identify different meanings of state, sovereignty and territory, and to understand their origins, comprehend their changes of meaning, analyze their interrelationships, and characterize their transformations”.¹³¹

This kind of constructivist exploration of sovereignty is exemplified by Daniel Philpott’s book *Revolutions in Sovereignty*, which examines how the Westphalian system of sovereign states that “so

¹²⁷ See, for example, T. J. Biersteker and C. Weber, *State Sovereignty as Social Construct* (Cambridge University Press, 1996); Jens Bartelson, *A Genealogy of Sovereignty* (Cambridge University Press, 1995); Cynthia Weber, *Simulating Sovereignty: Intervention, the State, and Symbolic Exchange* (Cambridge University Press, 1995); D. Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton University Press, 2001).

¹²⁸ Weber, *Simulating Sovereignty*, 9.

¹²⁹ C. Reus-Smit, *The Moral Purpose of the State: Culture, Social Identity, and Institutional Rationality in International Relations* (Princeton Univ Pr, 1999), 22.

¹³⁰ Thomas J. Biersteker, ‘State, Sovereignty and Territory’, in *Handbook of International Relations*, ed. Walter Carlsnaes, Thomas Risse-Kappen, and Beth A. Simmons (London: SAGE, 2002), 208.

¹³¹ Ibid.

essentially defines world politics today” came into being.¹³² Taking a macro-historical perspective, Philpott’s analysis suggests that freedom was profoundly implicated in the development of sovereignty, describing its history as an “unfolding logic of liberation”.¹³³ Philpott’s analytical focus is on developments in international authority, which he sees as varying along three axes; what is a legitimate polity, who may become a legitimate polity, and what are the basic prerogatives of those polities.

The two most important developments of international authority identified by Philpott are the ‘revolutions in sovereignty’ he identifies as generating the contemporary sovereign state system; the Peace of Westphalia in 1648 and decolonisation in the 1960s. These two very different revolutions were, he argues, driven by ideational developments prompting claims to sovereignty made “in a similar moral fashion, on behalf of a similar value—freedom”.¹³⁴ Importantly, Philpott’s referent for freedom is not the individual, but rather states; the story of liberation Philpott tells is “the liberation of states, the freedom of states” from larger authorities.¹³⁵ Philpott exhibits, therefore, a number of important elements of an investigation of the freedom of the state; the state as a referent of freedom, a sensitivity to the importance of ideas and social institutions, and a theoretical sensitivity to legitimate state prerogatives. Philpott’s conceptual focus, however, is sovereignty, and it is through the prism of this principle that he sees the history of modern international relations; a history which he characterises as first the waxing and then (the beginnings of) the waning of sovereignty as the definitive international principle. Philpott sees the history of international authority as one of the establishment and diminishment of ‘the sovereign state’—an entity which, although central to Philpott’s study, is not scrutinised theoretically or empirically—rather than a dynamic transformation of the state as an important locus of authority.

Although Philpott understands sovereignty as a social institution and hence variable, he attributes to it a fairly fixed meaning (“supreme authority within a territory”) and, given that he doesn’t locate that institution within a broader normative environment of overlapping institutions which bear on the identity of the state, he is unable to see certain aspects of important transformations. For example, when discussing the second ‘revolution in sovereignty’, 20th century decolonisation, Philpott describes an “expansion” and “replication” of the sovereign state, but not a transformation of what that meant in terms of legitimate authority. In Philpott’s terms, decolonisation was a

¹³² Philpott, *Revolutions in Sovereignty*, 84.

¹³³ *Ibid.*, 253.

¹³⁴ *Ibid.*, 254.

¹³⁵ *Ibid.*, 153. Philpott does, on occasion, refer to the freedom of peoples, rather than states.

revolution in one aspect of international authority—‘who may become a legitimate polity’—but a “reinforcement”, not revision, of the other two aspects (what is a legitimate polity and what are its basic prerogatives).¹³⁶ This characterisation, the result of seeing historical events through the narrow focus on sovereignty, elides the significant change in prerogatives of existing states that the delegitimation of formal empire represented. In part, this empirical lacuna can be attributed to fact that Philpott, and IR in general, lacks a thorough conceptualisation of state freedom. Philpott recognises the historical significance of freedom in the development of the sovereign state, but conceptually he implicitly conflates the two: state freedom is equivalent to formal sovereignty. As such, he is able to see the emergence of state freedom, but not its transformation.

Other authors that have analysed sovereignty from a constructivist perspective have recognised the need to consider sovereignty as only one principle (albeit a particularly important one) among several existing within a complex normative environment. Several authors in the edited volume *State Sovereignty as Social Construct* recognise that “sovereignty is not the only principle constituting state actors”,¹³⁷ and that multiple (social) institutions co-exist in the international system, creating role and identity conflicts for states.¹³⁸ In their concluding chapter to the volume, Thomas Biersteker and Cynthia Weber assert that “one of the most striking conclusions” of the book is the observation that sovereignty “is only one among several competing organizing principles for state relations in the international system”, and that “sovereignty is only one of many identities that a state actor can take on”.¹³⁹ Constructivism’s social ontology opens up, therefore, opportunities to investigate the ways in which social structures constitute states as agents in sophisticated ways. As yet, however, state freedom has only been hinted at in the empirical and historical applications of that approach.

The English School and state freedom

Proponents of the English School approach to international relations have been less explicit than constructivists in setting out their ontology of the social world and of their meta-theoretical and methodological principles. However, English School authors have nonetheless demonstrated a clear common sensibility in the kinds of questions they ask and the ways in which they go about

¹³⁶ Ibid., 155.

¹³⁷ Wendt and Freidman in Biersteker and Weber, *State Sovereignty as Social Construct*, 248.

¹³⁸ Barnett in *ibid.*, 152, 159.

¹³⁹ Ibid., 278.

answering them. Inspired by a small group of prominent scholars—such as Martin Wight, Hedley Bull, R.J. Vincent and Adam Watson—English School scholars' principal object of study has been international society, a conceptual mid-point between realist conflict and utopian harmony. English School scholars traditionally follow, to a degree, realist premises and accept that a system of autonomous states without central authority leads to problems of instability and disorder. However, like constructivists, they also see states as forming a *society*, with rules, norms and institutions that regulate state behaviour. States in international society share “common interests and common values”, even if only to a minimal degree, and so “form a society in the sense that they conceive themselves to be bound by a common set of rules on their relations with one another, and share in the working of common institutions”.¹⁴⁰

Whether or not a group of states in any one place and time do actually form such a society, and if so what are the shared purposes and “values” it embodies, is an empirical and historical question—a question to which scholars from the English School have enthusiastically applied themselves. Despite the historical contingency of analyses of international society, however, one subject that has been enduringly prominent in English School analyses has been the relationship between order and independence. The starting point for much of the most important English School work was the “coexistence of independent political communities, if not in a state of nature then certainly in the absence of a common government”. Vincent described that anarchy as being for Bull “the central fact of international life” and the “central theoretical task was to decide how it was that order could obtain in this anarchy”.¹⁴¹ Like realists, English School scholars connect state independence with international instability, and so reconciling state autonomy with order is a central normative task for both theorists and practitioners of IR.

In the Westphalian society of states, state autonomy is identified by English School scholars as a basic shared value. If the distribution of authority into distinct sovereign states defines the Westphalian state system, it follows that for such a system to constitute a society there must at least be a mutual respect for the autonomy of its members. As John Vincent explained:

If international society is accurately described as being split up into islands of order, the distribution of which is determined by the principle of state sovereignty, then it is the function of the rule of nonintervention to draw attention to that distribution and require respect for it. It is a first principle,

¹⁴⁰ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics*. (Houndmills, Basingstoke, Hampshire: Palgrave, 2002), 13.

¹⁴¹ R. J. Vincent, ‘Hedley Bull and Order in International Politics’, *Millennium - Journal of International Studies* 17, no. 2 (6 January 1988): 195.

an elementary rule of orderly international relations because its observation would demonstrate the recognition by states of the existence of others and the legitimacy of their separateness in a society bound together only by mutual acknowledgement of the autonomy of its parts. It is fundamental to order in a society without government because it stands guard over the established enclaves of order. So long as international society is primarily composed of sovereign states, observance of a general rule of nonintervention can be regarded as a minimum condition for their orderly coexistence.¹⁴²

A minimal condition for order¹⁴³ between sovereign states, then, is a shared respect for autonomy. Although English School scholars assert the tight and stable link between the autonomy of states and the institution of non-intervention— for Nicholas Wheeler non-intervention is a “cardinal” rule of international society,¹⁴⁴ while Robert Jackson describes it as a “*grundnorm*”¹⁴⁵—the historical sensitivity of the English School means that they have been attentive to evolving modes of securing state independence. As I have shown in the introduction to this thesis, Martin Wight identified balance of power as a doctrine of inter-state relations as being animated by the shared purpose of maintaining the freedom of states. Wight asserted that “the postulate that there is an international society “generally entails” the belief that “the tranquillity of international society and the freedom of its members require an even distribution of power”.”¹⁴⁶ He saw the balance of power as a solution to the problem of the insecurity generated by the freedom and independence of states. The balance of power developed as an institution, therefore, to reconcile “international order” with state “independence”. In 18th and 19th century Europe, it was understood that “a distribution of power was the condition of international freedom” and “the guarantee of ‘the liberties of Europe’”. The conscious management of the balance was an attempt to avoid twin threats to state autonomy; on the one hand “disorder” and “insecurity” and, on the other, “a universal empire, with general loss of freedom”.”¹⁴⁷

Examining the 20th century, Robert Jackson also notes the parallels between freedom and the purposive protection of state autonomy. In his study of sovereignty through the prism of ‘quasi-states’, Jackson draws out some of the parallels between freedom and sovereignty through his

¹⁴² R. J. Vincent, *Nonintervention and International Order* (Princeton University Press, 1974), 330.

¹⁴³ Understood by Bull as a “pattern of human activity that sustains elementary, primary or universal goals of social life” (Bull, *The Anarchical Society*, 4.)

¹⁴⁴ Nicholas J Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2003), 11.

¹⁴⁵ Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge University Press, 1993), 6.

¹⁴⁶ Martin Wight, ‘Western Values in International Relations’, in *Diplomatic Investigations: Essays in the Theory of International Politics*, ed. Herbert Butterfield and Martin Wight (London: Allen & Unwin, 1966), 103.

¹⁴⁷ Martin Wight, ‘Balance of Power and International Order’, in *The Bases of International Order: Essays in Honour of C.A.W. Manning*, ed. Alan James (London; New York: Oxford University Press, 1973), 100–103.

dualistic conception of “positive sovereignty” and “negative sovereignty”. Like negative liberty, negative sovereignty is defined as “freedom from outside interference”;¹⁴⁸ a formal-legal condition conferred on states by international society. Positive sovereignty, on the other hand, “presupposes capabilities which enable governments to be their own masters”; like positive liberty it is a subjective condition, and one which demands a government is able to conduct international relations and “has the wherewithal to provide political goods for its citizens”.¹⁴⁹ Following the period of rapid decolonisation post-World War II, the nature of the freedom of states in the international system dramatically altered; whereas pre-1945 all states possessed ‘positive sovereignty’, the materially weak post-colonial states that emerged from the wreckage of European empires possess only ‘negative sovereignty’, guaranteed by the powerful states in the system.

While Jackson and Wight’s insights about sovereignty and balance of power are both suggestive of the freedom of states being an important concept in the Westphalian states system, neither of them devotes sustained analytical attention to the concept. Although Wight notes that the preservation of freedom was an important common purpose states in 18th and 19th century Europe, the meaning of that term in that context is not scrutinised, implicitly taken to mean an absence of hegemony. Jackson meanwhile uses freedom as an heuristic device and implicitly assumes an equivalence between state freedom and state sovereignty.

The closest an English School scholar has come to analysing state freedom at length is Adam Watson. His book *The Evolution of International Society* is the most ambitious attempt to theorise the relationship between state independence and order across international societies of states. In *The Evolution of International Society*, Watson makes a general argument that across states systems that there is “an inevitable tension between the desire for order and the desire for independence”. Political communities are willing to accept constraints on their “freedom of action” in order to gain the benefits of “peace and prosperity”.¹⁵⁰ According to Watson, all systems of political communities are organised according to principles falling somewhere between the “theoretical absolutes” of “absolute independence and absolute empire”.¹⁵¹ The institutions that an international society develops will be, according to Watson, an inevitable compromise between having “the ultimate

¹⁴⁸ Jackson, *Quasi-States*, 27.

¹⁴⁹ Ibid., 29.

¹⁵⁰ Adam Watson, *The Evolution of International Society: A Comparative Historical Analysis* (London; New York: Routledge, 1992), 14.

¹⁵¹ Ibid., 13 original emphasis.

ability to take external decisions as well as domestic ones” (but being insecure),¹⁵² and security (and a greater degree of “centralized authority”).¹⁵³

Watson sees a spectrum of patterns of international relations between his two extremes of absolute independence and absolute empire, along which an international system will exhibit varying degrees of integration between political entities. Moving along the spectrum from independence, international systems can be characterised by hegemony, suzerainty and dominion before arriving at empire.¹⁵⁴ The further a system is located along this spectrum, the greater the “constraints and commitments” that states are subject to.¹⁵⁵ The autonomy and independence of states in the schema is described variously as consisting of an absence of these constraints and commitments,¹⁵⁶ “freedom in external decision”,¹⁵⁷ “freedom of action”,¹⁵⁸ and that states are “free to act as they see fit”.¹⁵⁹ Watson notes that historically, in the European states system, there has been a prominent pull toward the independence end of his scale and freedom of internal and external action for states.¹⁶⁰ However, “the question of **order** between the member states of the European society became more acute in proportion as the demand for independence was realized, and the power of the states increased”.¹⁶¹ As a result, there has also been an important “gravitational pull towards hegemony, and the ubiquity of some hegemonial authority in societies of independent or quasi-independent states”.¹⁶²

The theoretical conclusion Watson draws from his macro-historical investigation suggests that the maintenance of some notion of state freedom has been a recurring and important common value within systems of states. However, Watson’s understanding of independence and autonomy seems to consist of freedom of action for states, something he contrasts with both constraints and order. The lack of conceptual scrutiny places on ‘freedom of action’, or the meaning of freedom more widely, mean that Watson does not see the possibility that states’ freedom of action and independence could be transformed rather than inhibited by constraints and commitments. While he notes the pull toward hegemony in systems of independent states and that this hegemony can

¹⁵² Ibid., 14.

¹⁵³ Ibid., 14, 17.

¹⁵⁴ Ibid., 13–16.

¹⁵⁵ Ibid., 14.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Ibid.

¹⁵⁹ Ibid., 313.

¹⁶⁰ Ibid., 252.

¹⁶¹ Ibid. Original emphasis.

¹⁶² Ibid., 314.

have benefits for all states, the relationship that the resulting order has with freedom of action is zero-sum; increasing order means decreasing autonomy and freedom of action. It is impossible for Watson to conceive, therefore, that states' freedom and autonomy might in important ways be constituted, not compromised, by commitments and integration.

Conclusion

State freedom and state liberty are terms that are close to completely absent from the academic discipline of International Relations. Although scholars casually refer to states as being free to or not free to engage in specific behaviours, sustained, explicit reflection on what it means for states to be free or unfree has yet to be undertaken. In this chapter I have examined four of the most prominent paradigms, or approaches, to the study of international relations—realism, liberalism, constructivism and the English School—and analysed important theories and theorists from each. I have attempted to show that although none of those schools of the study of world politics have yielded self-conscious and avowed studies of state freedom, implicit conceptions of state freedom appear to play important roles in the basic theoretical tenets of each approach.

Autonomous states that are subject to no external authority and no social constraints are central to the way that structural realists see the international system. They are the only actor that counts in international relations, and their presumed desire for autonomy generates neorealism's central predictions about state behaviour. A key problematic for liberal international theorists is how to preserve the freedom that states ought to possess as facilitators of human freedom while at the same time constraining states to avoid the dangers of war and conflict. For constructivists, the ways in which states are constrained and enabled by social structures are important not only for what they permit states to do but also because they constitute states as particular types of agents. English School scholars see an important tension between, on the one hand, states' freedom to make their own decisions and act upon them and, on the other hand, order and stability in international relations.

The authors surveyed in this chapter vary widely with respect to the ontological positions they hold with respect to world politics, the kinds of questions they are interested in asking, and the methods that they employ to do so. Nonetheless there are two commonalities that run through much of the literature considered here. The first is that the state is understood to be, or to have the potential to

be, a purposive agent. States are understood as important actors in world politics that have interests, make choices and act decisively. States either are or, at least, have the potential to be self-directing; to will and to follow that will. The second common theme in the literature surveyed is that the self-directing capacity of states either is or ought to be constrained. The nature of the constraints that states face, and the implications of those constraints for state autonomy, differ widely between the paradigms. However, the question of the extent to and ways in which the self-directing potential of the state is realised is a central issue for all of these important approaches.

Chapter Two

State freedom and relations of control

Introduction

In the previous chapter I reviewed a number of the major theoretical approaches in International Relations, showing that while none of the major paradigms have yet yielded extended, explicit consideration of state freedom, realism, liberalism, constructivism and the English School each, in different ways, imply a conception of states as free. In this chapter, I outline my approach to addressing the absence of reflection on state freedom in the discipline of International Relations. As noted in the introduction to this thesis, animating this research is a desire to investigate what role, if any, ideas about state freedom have played in the practice of international relations. I aim to illuminate the ways in which thinking about states in terms of freedom—what is the meaning of freedom when that value is applied to states and how might it be realised—has been implicated in how relations between states have been conducted. Chapters 3-5 are historical analyses of such ideas and together constitute an exploration of how ideas of state freedom have been manifest in practice. In this chapter, I lay the theoretical groundwork for the historical reconstructions that follow.

The argument proceeds in three parts. First, I make an argument that distinguishes between ideas and terms. I show that during the 17th and 18th century, the freedom of states was an explicit subject of political discourse and that arguments about the “liberty of states” and what constituted a “free-state” were notable. However, as the state’s position as the predominant site of political authority was consolidated, and as republicanism and Natural Law both faded in prominence, the use of the terminology of state freedom diminished. The absence of the terms freedom and liberty does not, however, equate to an absence of *ideas* of freedom. I argue that ideas of state freedom did not disappear from international discourse, but rather came to be expressed in different, but related, terms.

Although the absence of the terminology of state freedom does not necessarily denote an absence of ideas of state freedom, it does present a challenge for studying them; how can we identify ideas of state freedom in the absence of the guiding light of the term? In the second section I address this methodological challenge. In doing so, I turn to the history of ideas of freedom in general, rather

than ideas of state freedom specifically. I briefly examine some of the more influential theories of freedom in order to identify common elements that characterise discussions about freedom. I do not attempt to find a common or true essence of freedom, but rather to establish what is being disputed or argued about in different theories of freedom. I contend that state freedom ought to be understood as being more than just the freedom of action of states; state freedom is equivalent to neither state capacity nor the room to manoeuvre left to states once their obligations have been taken into account. Rather, I argue that theories of freedom can be characterised as being about the *necessary conditions* for *agents* to be *self-mastering*. I suggest that the three elements of i) agents, ii) necessary conditions and iii) self-mastery together constitute a 'grammar' of freedom that can be employed to identify debates about the freedom of states as well as human freedom.

Having identified what ideas of freedom are about, in the third section I move on to addressing the main question of this thesis; how have such ideas been implicated in the conduct of modern international relations? In this section I outline a theoretical argument for how ideas of state freedom can be understood to have been significant in conditioning international relations. The principal element of this argument is a claim that ideas of state freedom have, in modern international relations, structured *relations of control* between states, by which I mean patterns of influence and control between states. They do so via two basic intersubjective beliefs that have been persistently prominent in modern international relations. The first is a general normative preference for states to be free. Although there is no necessary relationship between holding an idea of what makes states free and a belief that such freedom ought to be realised, at least since the mid-18th century there has been a basic intersubjective belief that states ought, in some sense, to be free. The second is the belief that the freedom of states can only be realised in the context of certain social conditions; the freedom of states will be realised, conditioned or compromised by virtue of their relations with other actors. In the context of these two intersubjective beliefs, ideas about what make states free legitimate some configurations of relations of control between states and delegitimate others. By thus being implicated in the politics of legitimacy of the international system, ideas of state freedom have played an important, and under-studied, role in the practice of international relations.

Concepts and terms

The principal argument of Chapter One was that although the explicit terminology of state freedom is absent from IR theory, we can nonetheless infer conceptions of the states as, in one way or another, free in the major theoretical approaches to the study of international relations. The rest of this thesis attempts a similar task but its subject of inquiry moves from the conceptual schemas of IR theorists to the prevailing ideas structuring international practice. As with theorists of international relations, the practitioners of world politics do not readily employ the terminology of state liberty or state freedom when they analyse, interpret and debate international relations. That is not to say that the terms freedom and liberty have been absent from the practical discourse of international relations; individual and collective freedom both make up a notable part of the rhetorical armoury of states-people. However, while notions of the collective freedom of nations and peoples will be familiar to observers of world politics the notion of the freedom of states is likely to appear more alien.

Intellectual historians may be more familiar with the notion that states themselves, not only their populations, are or can be thought of as free. The idea that political communities could be free or unfree was an important normative preoccupation for the republican writers of the Italian renaissance, and the idea of the 'free-state' was an important concept in the development of the idea of the state itself.¹⁶³ These ideas, inspired by Roman republicanism were revived by neo-republicans in 17th century England and the conception of the 'free-state' enjoyed prominence. These thinkers, politicians and pamphleteers were strident in arguing that political liberty could only be realised in a free-state, which is to say a community in which the body politic was able to exercise its powers according to its "own wills" to meet its "own desired ends".¹⁶⁴ The 'will' in question for the republican thinkers was identified directly with the will of the citizens. The commonwealth (which was usually their preferred term for a political community), however, was associated directly with the people that constituted it; the will of a 'free-state' was not, therefore, reducible to the will of the ruler, but nor was it the will of the state conceived as an abstract entity or agent in itself.

According to the neo-roman writers, "a body politic, like a natural body, will be rendered unfree if it is forcibly or coercively deprived of its ability to act at will in pursuit of its chosen ends", ¹⁶⁵ or even if it is "merely subject or liable to having its actions determined by the will of anyone other than the

¹⁶³ Quentin Skinner, 'The State', in *Political Innovation and Conceptual Change*, ed. Terence Ball, James Farr, and Russell L Hanson (Cambridge; New York: Cambridge University Press, 1989).

¹⁶⁴ Quentin Skinner, *Liberty before Liberalism* (Cambridge University Press, 1998), 25–6.

¹⁶⁵ *Ibid.*, 47.

representatives of the body politic as a whole”.¹⁶⁶ Because of the association of the will of a polity with the will of its citizens, in republican thought there were two ways a commonwealth could be deprived of its freedom. One was “when a body politic finds itself subject to the will of another state as a result of colonisation or conquest”,¹⁶⁷ the other when the “internal constitution of a state” permitted “the exercise of any discretionary or prerogative powers on the part of those governing it”.¹⁶⁸ For a state to be free, then, the link between the will of the people translating into political action had to be assured; any subjection of the body politic to a will other than its own rendered it servile, regardless of whether the source of that exogenous will was foreign or indigenous.

The equivalence that the neo-roman writers posited between the will of the commonwealth and the will of its citizens—an equivalence which legitimated and delegitimated certain forms of constitution with reference to the value of freedom—was “highly subversive” and strongly criticised.¹⁶⁹ Prominent among such critics was Thomas Hobbes who, in his famous *Leviathan*, denied the link between freedom and the internal characteristics of a state. Hobbes did not deny the liberty of states, but he distinguished that freedom from the will of its citizens. The state was not identifiable directly with its population, but rather was itself a “person by fiction”,¹⁷⁰ irreducible to either its population or its rulers. In this watershed political theory, although the state is a fictional person that can only pronounce and act through its representatives, the fact that the actions of a representative are “attributed” to the state mean the fictional person of the state can still be, as Quentin Skinner notes, a “figure of unsurpassable force and might” and a “powerful agent”.¹⁷¹

As a result of this representative theory of the state, while Hobbes echoed the republican notion of the liberty of political communities, it was properly the freedom of the state as a fictional person itself rather than the freedom of its members to which he referred. The “Libertie of the Commonwealth” was, for Hobbes, “the same with that, which every man should have, if there were no Civil Laws, nor Common-wealth at all”.¹⁷² Because states are constrained by neither physical chains nor the artificial chains of law, “in States, and Common-wealths not dependent on one another, every Common-wealth, (not every man) has an absolute Libertie, to doe what it shall judge (that is to say,

¹⁶⁶ Ibid., 49.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid., 51.

¹⁶⁹ Ibid., 59.

¹⁷⁰ David Runciman, ‘What Kind of Person Is Hobbes’s State? A Reply to Skinner’, *Journal of Political Philosophy* 8, no. 2 (2000): 268.

¹⁷¹ Quentin Skinner, ‘A Genealogy of the Modern State’, *Proceedings of the British Academy* 162 (2009): 347.

¹⁷² Thomas Hobbes and Richard Tuck, *Leviathan* (Cambridge University Press, 1996), 149.

what that Man, or Assemblie that representeth it, shall judge) most conducing to their benefit”.¹⁷³ Of course, by possessing absolute liberty and hence living in a state of nature, Hobbes also saw states as existing in a “condition of perpetuall war” and sovereign representatives of states had “the Libertie to resist, or invade other people”.¹⁷⁴ Like individuals in the state of nature—who possessed the kind of liberty “by which all other men may be masters of their lives”¹⁷⁵—states, then, were free absolutely but precariously.

Hobbes’ theory of the state as a fictional person, possessing natural liberty, was received into continental philosophy and re-articulated in terms of a ‘moral person’ possessing a single ‘understanding and will’ that was embodied in (but not reducible to) the representatives of the state.¹⁷⁶ This Hobbesian schema received “by far” its “most influential” presentation in Emmerich de Vattel’s 1758 treatise *Le Droit des Gens* (*The Law of Nations*). The conception of the state as a moral person was fundamental to Vattel’s thinking; it was this moral personhood that made the state a subject of natural law, and it was the application of this law to states to which *The Law of Nations* was dedicated. The starting point of this application was to proclaim, though analogy to human individuals in a state of nature, that the state was naturally free. The distinct, and profoundly influential, contribution that Vattel makes to the history of international thought is to explore how this natural freedom of states can be made compatible with their interdependence and societal obligations.¹⁷⁷ As Theodore Christov has noted, “Vattel’s most pronounced concern is reconciling the tension between the freedom of states and their duties to the natural society of nations”.¹⁷⁸

Stéphane Beaulac has argued that in exploring this tension, Vattel “transformed the reality of the word ‘sovereignty’” in order to “carry out the *externalization* of the idea of exclusive and supreme power over territory and people”.¹⁷⁹ This extension of sovereignty’s meaning “constitutes”, according to Beaulac, “the most important episode in the history of the changing social effects of

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Ibid., 147.

¹⁷⁶ Skinner, ‘A Genealogy of the Modern State’, 348–353.

¹⁷⁷ As Richard Devetak notes: “Though Hobbes and Pufendorf both recognized the ‘masterless’ condition in which states find themselves, neither felt compelled to elaborate much further on this empirical condition of ‘natural liberty’. This where Vattel makes his contribution, beginning at the point where Grotius, Hobbes, and Pufendorf left off” (Richard Devetak, ‘Law of Nations as Reason of State: Diplomacy and the Balance of Power in Vattel’s Law of Nations’, *Parergon* 28, no. 2 (2011): 111.).

¹⁷⁸ Theodore Christov, ‘Liberal Internationalism Revisited: Grotius, Vattel, and the International Order of States’, *The European Legacy* 10, no. 6 (1 October 2005): 569–70.

¹⁷⁹ Stéphane Beaulac, ‘Emer de Vattel and the Externalization of Sovereignty’, *Journal of the History of International Law* 5, no. 2 (2003): 242.

‘sovereignty’ on the international plane”.¹⁸⁰ I do not disagree with Beaulac’s main thesis that the sovereign state for Vattel is an entity that is both “*incorporated and independent*”,¹⁸¹ or that *The Law of Nations* was influential in the development of that meaning. However, although it is rarely given much importance by IR scholars, the terms in which Vattel discussed the external implications of the moral personhood of the state not sovereignty, but rather ‘freedom’, ‘liberty’ and ‘independence’.¹⁸² Most of the time, when using the term sovereignty, Vattel was not referring to the international independence of states, but rather employing the term in the same way as Hobbes; to denote a supreme public authority that embodies the fictional person of the state.¹⁸³

That Beaulac uses the term sovereignty to describe what Vattel calls freedom is indicative of the fading prominence of the terminology of state freedom since the mid-18th century. Andrew Hurrell and Richard Devetak have both placed Vattel at a crossroads, historically and theoretically, between pre- and early-modern ideas of the unity of Christendom and more recognisably modern practices and ideas about autonomous nation-states.¹⁸⁴ Vattel’s conception of the freedom of states exemplifies his position as a thinker of epochal transition, rooted as it is in 17th century universalising ideas about natural law, but employed to derive ideas about state independence, balance of power and moral pluralism. For natural law thinkers, the notion that states were free was an obvious conclusion; individuals were naturally free, states were individuals in a state of nature and states were, therefore, free. As Natural Law ideas were replaced in international juridical thinking by positive law—a shift often attributed to Vattel—the terminology of free states also fell out of favour. As we will see in Chapter Four, 19th century international lawyers were extremely indebted to Vattel’s conception of states, but whereas he described states as naturally free, later writers assigned to states a natural or essential right to sovereignty. Similarly, the Hobbesian rejection of the link between political liberty and living in a free state prevailed over republican ideas, severing state freedom from its other main intellectual grounding.

¹⁸⁰ Ibid., 241.

¹⁸¹ Ibid., 250.

¹⁸² Emmerich de Vattel, *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns* (Indianapolis: Liberty Fund Inc, 2008), 71, 74, 77, 85 ‘Libre’, ‘Liberté’ and ‘indépendance’ in the original French.

¹⁸³ For example *ibid.*, 81, 96–97, 99.

¹⁸⁴ Andrew Hurrell, ‘Vattel: Pluralism and Its Limits’, in *Classical Theories of International Relations*, ed. Ian Clark and Iver B Neumann (Basingstoke ; London : New York, N.Y. : Oxford: Macmillan : in association with St. Antony’s college(IS) ; St. Martin’s press(IS), Macmillan ; St. Martin’s press ; St. Antony’s college, 1999), 246–7; Devetak, ‘Law of Nations as Reason of State’.

As I will show in the chapters that follow, the issues and questions raised by Vattel in relation to the freedom of states, and the tension between “pluralism and unity”,¹⁸⁵ have not been resolved in the practice of modern international relations; they have been enduring, subject to repeated contestation and negotiation. That contestation has not been characterised, however, by the prominent use of the terminology of the freedom and liberty of states.

The presence of notions of the freedom of states during the period in which the modern states system was consolidated is indicative of the possibility that ideas of state freedom have some importance for the practice of international relations. The diminishing prominence of that language, however, raises a legitimate question of whether that concept has had any international importance since the mid-18th century. The remainder of this thesis constitutes an argument that it has, but that the presence of conceptions of state freedom have not been marked by the use of the term state freedom. The next section outlines how I understand and identify ideas of state freedom, but before doing so it is necessary to defend the possibility that concepts can be distinguished from terminology. I will address two avenues for criticism of attempts to separate ideas from terminology. The first is the philosophical position that identifies meaning with language. Such linguistic approaches to philosophy, although broad and varied, can be characterised as rejecting transcendental and metaphysical accounts of meaning, instead arguing that language is the medium through which meaning is both constructed and understood. Unsurprisingly, the words used by social actors are given great importance in such approaches, and the attribution of a concept or idea to an actor or actors without the corresponding use of the language would violate the basic tenets of linguistic philosophy. The importance of such philosophy for the study of international relations becomes apparent when the association between language and meaning is extended into arguments that language can play a productive or performative role in the creation of social reality, for example through the creation of social roles and identities or through speech acts. If such approaches are correct, then the social world is constituted by the language through which social actors communicate. Whether the language of state freedom is present or absent is, therefore, far from a trivial issue.

As will become clear in the remainder of this chapter, underlying the theoretical approach to this thesis is an ontological position that owes much to philosophical approaches that hold language as implicated in the construction of social reality. To note the importance of language, however, does not necessarily entail adhering to equivalence between ideas and terminology. Although we may

¹⁸⁵ Hurrell, ‘Vattel: Pluralism and Its Limits’, 247.

sometimes assume a necessary relationship between concepts and terms, even brief reflection shows that to be mistaken.

It is a familiar scholarly practice to problematise the relationship between a term and the concept it represents. Intellectual historians, for example, have been clear in identifying the danger in assuming that a particular term, such as 'sovereignty', has a single meaning. Employing the Wittgensteinian observation that 'sovereignty' cannot have any meaning that transcends its use, to assume that it had the same meaning in the 17th century as today would risk anachronism. Indeed, historical investigation into the changing meanings of key concepts in international relations has proved a fruitful scholarly endeavour over recent decades.

Once the relationship between term and concept is compromised by the observation that a single term can have multiple and evolving meanings it opens up the possibility that a concept can be held, and communicated, without the use of a specific term. This is something that is clear from the way we use and think about language in everyday settings. We would not deny, for example, that a person could have an understanding of, recognise and even discuss the Freudian idea of 'abnegation' without ever having encountered the term. Even if one were to deny the possibility of forming concepts without language, such a position would not imply the need to articulate that concept using any specific term in order to possess an understanding of it. Again, as an example, we can linguistically construct the idea that people may, as a psychological defence-mechanism, refuse to accept overwhelming evidence of something, all without using the term abnegation.

Although it has been commonplace to accept that a single term can have different meanings in different contexts, scholars have seemed less willing to accept that a concept can be in use in the absence of a (pre-determined) corresponding term. This is perhaps precisely because of the suspicion that language has to be situated, and used, to have meaning. If concepts are denied any transcendental, essential meaning, then the use of terminology may appear to be the only way for concepts to be identified. To again use sovereignty as an example, if it is acknowledged that the meaning of sovereignty is evolving not fixed, to establish its meaning in particular spatial and temporal contexts demands an examination of the use of sovereignty. In order to escape reliance on the use of the term sovereignty, one would have to assign to the concept of sovereignty a fixed meaning; only armed with an *a priori* understanding of sovereignty could one identify the use of that concept without the use of the term. It seems then, at first blush, that we can either hold ideas to be

changing and analyse the use of the term, or hold meaning fixed and allow that it can be expressed in a variety of terms, but not hold that both meaning and terminology can be changeable.

In this thesis I take the position that we can both reject that concepts have essential definitions and also that they need to be expressed in relation to specific terms; concepts are reducible neither to terms nor essential definitions. The idea that we must *a priori* privilege either specific terminology or a specific definition of a concept is unsatisfactory because privileging terminology risks obscuring the employment of a concept in other terms, while privileging an essential understanding means ignoring the possibility that meanings can change. I attempt to avoid both of those problems by distinguishing the *topic* of state freedom from both the *term* state freedom and particular *ideas*, or conceptions of state freedom. While ideas of state freedom (understandings of what constitutes freedom for states) can evolve, and can be expressed through a variety of terms, I argue that a broader understanding of what ideas of state freedom are *about* (not what they *are*) can nonetheless usefully bring different ideas expressed in different terms under the rubric of state freedom.

If we accept the ontological position that ideas (or concepts) and terms can be separated, the second principal avenue for criticising the separation of concepts from terms is the epistemological question of whether we can correctly attribute an idea to somebody if they do not use specific terminology. This seems to be the concern of Quentin Skinner, who distinguishes concepts from terms but cautions against revising the terms in which historical beliefs are expressed. Skinner asserts that “if we wish to grasp how someone sees the world – what distinctions he draws, what classifications he accepts – what we need to know is not what words he uses but rather what concepts he possesses”.¹⁸⁶ But Skinner also argues that: “historians have no option but to begin by assuming that what people actually talk about provides us with the most reliable guide to their beliefs”.¹⁸⁷ “To begin by insisting that they must really be talking about something else”, he argues “is to run the highest risk of supplying them with beliefs instead of identifying what they believed”.¹⁸⁸

The danger that Skinner raises of attributing to people beliefs to which they did not adhere is, in a thesis like this one, very real and ought to be taken seriously. However, it strikes me as an obstacle

¹⁸⁶ Quentin Skinner, ‘Language and Political Change’, in *Political Innovation and Conceptual Change*, ed. Terence Ball, James Farr, and Russell L Hanson (Cambridge; New York: Cambridge University Press, 1989), 7.

¹⁸⁷ *Ibid.*, 51.

¹⁸⁸ Quentin Skinner, *Visions of Politics. Volume 1, Regarding Method* (Cambridge; New York: Cambridge University Press, 2002), 51.

that ought to be confronted methodologically rather than avoided by forsaking particular lines of academic inquiry. I both address and attempt to overcome that problem in the next section, where I outline a *grammar* of debates about freedom that can accommodate both changing terminology and changing conceptions of freedom.

The grammar of freedom

In this section I address the methodological challenge of how to identify and reconstruct ideas of state freedom in the absence of the terminology of state freedom. This difficulty is exacerbated by the fact that although I know the species of ideas I wish to identify—what constitutes state freedom, or what it means to be a free state—the content of those ideas is necessarily unknown. My aim is to uncover ideas of state freedom rather than approach historical investigation armed with an *a priori* idea of state freedom and attempt to find arguments with which it is consistent. Freedom could be termed an essentially contested concept and the value in studying it in relation to states is to make the contestation that surrounds it, and its significance, visible rather than attempt to settle it.

As Christian Reus-Smit has argued, when examining the historical role of ideas “[w]hat matters is the form arguments take, not the terminology employed”.¹⁸⁹ In keeping with this sentiment, my approach is to elucidate not what state freedom *is*, but rather what discussions about freedom in general have been *about*. In this section I examine arguments about freedom generally (rather than specifically state freedom) and identify what I argue are important common elements in different theories of freedom. I argue that some of the most prominent and enduring theories of the freedom of human individuals and groups have been about the *necessary conditions* for *agents to be self-mastering*. These three elements—agents, necessary conditions and self-mastery—do not represent an essence of freedom, but debate about freedom nonetheless tends to involve disagreement about one or more of these elements. Together, I argue, they can be seen as constituting a grammar of debate about freedom. Identifying this grammar, or form, in the practical discourse of international relations can, I claim, help distinguish ideas about state freedom from other species of ideas without foreclosing the meaning of state freedom. In other words, the grammar of freedom can be used to identify the *topic* of state freedom without prejudicing a particular *conception* of state freedom.

¹⁸⁹ Christian Reus-Smit, *Individual Rights and the Making of the International System* (Cambridge, United Kingdom: Cambridge University Press, 2013), 45.

In the last century, perhaps the most significant debate between theorists about the grammar of freedom has revolved around the distinction between positive and negative concepts of liberty. This dichotomy was made famous by Isaiah Berlin in his 1958 essay *Two Concepts of Liberty* in which he distinguished two “senses” of freedom, or liberty. The first of these, negative liberty, was concerned with the question “What is the area within which the subject—a person or group of persons—is or should be left to do or be what he is able to do or be, without interference by other persons”. The second theory, positive liberty was concerned with the question “What, or who is the source of control or interference that can determine someone to do, or be, this rather than that”.¹⁹⁰

In Berlin's exposition of negative liberty, which he associates with the Liberal tradition of political thought, this concept of freedom has three structural elements. The first is a subject which is capable of both desire and choice.¹⁹¹ The second element is potential constraints, and the third is an external power or authority, which is the source of those potential constraints. It is the relative presence or absence of constraints—put in place by the external power—on the choice of the subject that determines the extent to which that subject is said to be free or unfree: “If I am prevented by others from doing what I could otherwise do, I am to that degree unfree”.¹⁹² Freedom in this sense does not consist in the actual action (or inaction) of the subject following the choice, but rather the absence of interference in making the choice; it is an “opportunity concept” rather than an “exercise concept”.¹⁹³ It is the sentiment that freedom consists in the *absence* of constraints that makes this idea of liberty a negative one.

Positive freedom, for Berlin, rather than asking “How much am I governed?”, asks “By whom am I governed?”,¹⁹⁴ with the response of the free man being “I am my own master”.¹⁹⁵ Berlin recognises that, logically, the condition of being one's own master does not seem far removed from the absence of interference in choosing.¹⁹⁶ Historically, however, this positive understanding of freedom has, according to Berlin, rested on a split conception of the self; a lower self of “impulse” and “uncontrolled desires” and a higher, or real, self of “reason”.¹⁹⁷ In positive understandings of freedom, Berlin argues, this higher self “became identified with institutions, Churches, nations,

¹⁹⁰ Isaiah Berlin, *Liberty: Incorporating Four Essays on Liberty*, ed. Henry Hardy (Oxford University Press, 2002), 169.

¹⁹¹ *Ibid.*, 30.

¹⁹² *Ibid.*, 169.

¹⁹³ Isaiah Taylor, ‘What’s Wrong With Negative Liberty?’, in *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, ed. Alan Ryan (Oxford: Oxford U.P., 1979), 177.

¹⁹⁴ Berlin, *Liberty*, 30.

¹⁹⁵ *Ibid.*, 179.

¹⁹⁶ *Ibid.*, 178.

¹⁹⁷ *Ibid.*, 180.

racess, States, classes, cultures, parties, and with vaguer entities, such as the general will, the common good".¹⁹⁸ In short, it was through the organisation of human beings into certain forms of social life that this higher self was realised. In this way, on Berlin's assessment, "what had begun as a doctrine of freedom turned into a doctrine of authority".¹⁹⁹ Berlin was deeply suspicious of positive freedom because of the possibility it holds for a disconnection between a person's professed desires and their authentic desires; opening up this gap was, for Berlin, to open the gates to a totalitarianism that destroys freedom (that is to say, freedom of choice).

This positive tradition of thought does, however, have a long list of adherents in the history of political thought, from Aristotle²⁰⁰ through to Charles Taylor.²⁰¹ The fundamental tenet of such approaches to freedom are a denial that the only relevant threats to a person's freedom are external constraints, highlighting the dangers of internal fetters, and that true freedom consists of realising an idealised conception of the self.²⁰² Most often (although not necessarily), the realisation of the authentic desires, or the true self, that constitute positive freedom involve some active participation in collective self-rule. Hence, the grammar of positive freedom can be generalised to consist of a base subject, a higher subject and a social structure. Freedom consists of the realisation of the higher subject which is achieved through the exercise of self-rule in a social structure.

In the years since Berlin's essay, the work of intellectual historians has identified a second strain of negative freedom with a long tradition in the history of political thought but which does not consist of non-interference but rather "non-domination".²⁰³ In this approach to liberty—associated primarily with neo-roman political thought and the classic writings on Roman jurisprudence—the direct connection between interference and 'unfreedom' is severed, opening up the possibility for situations in which a subject is unfree without being interfered with, or interfered with without being unfree.²⁰⁴ According to Phillip Pettit (who along with Quentin Skinner has led the revival of the idea of freedom as non-domination) this is so because while all interference *conditions* freedom, it is only interference of an *arbitrary* nature that reduces it; a person is free to the extent that no-one

¹⁹⁸ Ibid., 37.

¹⁹⁹ Ibid.

²⁰⁰ Gisela Bock et al., eds., *Machiavelli and Republicanism* (Cambridge [England]; New York: Cambridge University Press, 1990), 279.

²⁰¹ Taylor, 'What's Wrong With Negative Liberty?'

²⁰² Ibid.

²⁰³ Philip Pettit, *Republicanism: A Theory of Freedom and Government* (Oxford University Press, USA, 2000).

²⁰⁴ Ibid., 273.

has the capacity to interfere with them “without being forced to track their acknowledged good.”²⁰⁵ Republican writers have often been understood as holding a positive conception of freedom in the civic humanist tradition whereby freedom consists of living a virtuous life of civil duty. As Skinner and others have shown, however, for writers such as Machiavelli, civic life did not constitute freedom in the sense of self-realisation. Rather, it was through public service that a population was able to prevent political power being exercised in an arbitrary manner which would interfere in the personal life of citizens.²⁰⁶ Freedom in this view consists of neither the act of public service nor the condition of non-interference but rather the status of not being subject to arbitrary power. The grammar of republican freedom therefore consists of a subject, power external to that subject and a non-arbitrary power relation between the two.

Although positive and negative approaches to freedom share the element of a subject with the capacity for desires and choice, their relative understandings of what constitutes that subject's freedom are often interpreted as opposites. For some, the notions that a person can be forced to be free (as positive freedom can allow) or freedom as a form of service (as in republican freedom) are fallacies; freedom consists in the very opposite, being able to act (or not act) according to one's wishes. Some critics contend, therefore, that such theories are not theories of freedom at all and are actually theories of constraint.²⁰⁷ Likewise, critics of freedom as non-interference have asserted that the freedom to follow one's choices ought, in certain circumstances, be understood as a form of slavery rather than liberty.²⁰⁸

Both of these seemingly irreconcilable approaches boast distinguished lineages in the history of thought about political freedom, and both seem to capture elements of what freedom is commonly thought to mean. Neither approach, therefore, should be cast aside lightly. Given their seemingly inverted understandings of freedom, however, is there any possibility of reconciling the two into a single grammar of freedom? Gerald C MacCallum made a highly influential attempt along those lines in his 1967 article *Negative and positive freedom*. In it, MacCallum made the bold claim that theories of freedom both positive and negative follow the same, triadic, structure:

²⁰⁵ Ibid., 284. See also Quentin Skinner, ‘A Third Concept of Liberty’, *Proceedings of the British Academy* 11 (2002): 248.

²⁰⁶ Quentin Skinner, *Visions of Politics, Volume 2, Renaissance Virtues* (Cambridge: Cambridge University Press, 2002), 163.

²⁰⁷ Oppenheim, cited in Bock et al., *Machiavelli and Republicanism*, 296.

²⁰⁸ Taylor, ‘What’s Wrong With Negative Liberty?’.

Whenever the freedom of some agent or agents is in question, it is always freedom from some constraint or restriction on, interference with, or barrier to doing, not doing, becoming, or not becoming something. Such freedom is thus always *of* something (an agent or agents), *from* something, *to* do, not do, become, or not become something; it is a triadic relation. Taking the format “x is (is not) free from y to do (not do, become, not become) z,” x ranges over agents, y ranges over such “preventing conditions” as constraints, restrictions, interferences, and barriers, and z ranges over actions or conditions of character or circumstance.²⁰⁹

Different theories of freedom can be best identified, according to MacCallum, not as different “kinds” of liberty, but in terms of their disagreement “in what they understand to be the ranges of the term variables”.²¹⁰ If one of the three elements of this “triadic relation” of freedom is not present in discussions of freedom, it “should be only because the reference is thought to be understood from the context of the discussion”.²¹¹

MacCallum's formalistic account of freedom rests on what seems to be a fairly thin reading of positive freedom; he associates positive freedom with “freedom to”, and asserts that this dyadic relation, along with “freedom from” do not represent “genuinely different” concepts of liberty, but rather “serve only to emphasise one of the other two features of *every* case of the freedom of agents”.²¹² This conflation of positive freedom with ‘freedom to’ seems to misrepresent the grammar of many of the most influential positive theories of freedom; in theories of self-realisation or human flourishing, the freedom in question is not *to* do something, but rather freedom *in* or *through* doing.²¹³

This misrepresentation of positive theories of freedom notwithstanding, and even if we don't accept that MacCallum is completely successful in eliding the differences between positive and negative freedom into a single structure, his triadic relation may still be useful for the purpose of identifying ideas about freedom; although it has been resisted by advocates of both positive and negative liberty, the triadic relation does seem to capture much of what is at stake in a great deal of discussion about freedom. Liberal theorists of negative freedom often hold that the locus of freedom is in the absence of constraint and that any subsequent positive desire (to act, to be, etc.) is

²⁰⁹ G. C MacCallum, ‘Negative and Positive Freedom’, *The Philosophical Review* 76, no. 3 (1967): 314.

²¹⁰ *Ibid.*, 312.

²¹¹ *Ibid.*, 314.

²¹² *Ibid.*, 318.

²¹³ Skinner, ‘A Third Concept of Liberty’, 241–3.

properly outside the theory of freedom; this was Berlin's response to MacCallum.²¹⁴ However, divorced from any positive desire, freedom understood as an absence of constraints seems to lose its meaning, or certainly its significance, as a *political* concept; if freedom were an entirely negative ideal, unconnected to positive ends, it would seem strange to hold it as a valuable political ideal. Undergirding understandings of freedom as non-interference there is necessarily at least the positive aim of choosing. Holding freedom as non-interference as a value makes no sense unless it facilitates higher order values.

Freedom as non-interference can, therefore, fit MacCallum's triadic structure in the sense of an agent being free *from* constraints in order to be free *to* choose; the positive element need not be a physical action, but rather the process of choosing itself. Indeed, even if theorists of negative liberty prefer to push the act of choosing outside the formal definition of freedom, it is fundamentally linked to their normative preference for liberty. As Berlin wrote:

[Those] who have ever valued liberty for its own sake believed that to be free to choose, and not to be chosen for, is an inalienable ingredient in what makes human beings human; and that this underlies both the positive demand to have a voice in the laws and practices of the society in which one lives, and to be accorded an area, artificially carved out, if need be, in which one is one's own master, a 'negative' area in which a man is not obliged to account for his activities to any man so far as this is compatible with the existence of organised society.²¹⁵

Republican ideas about freedom can also fit MacCallum's triadic relation in this way by taking into account a normative preference for personal liberty that motivates the desire to escape arbitrary power.²¹⁶

Positive theories of freedom, for their part, can be consistent with MacCallum's triadic relation if we consider them in the context of the necessary conditions for freedom to be realised. Internally, positive freedom can fit the grammar of an agent being free from the desires of the lower self to realise its higher self. Externally, the agent needs to be free from any relevant social constraints that would impede the content of positive freedom—self-realisation or whatever is proclaimed to constitute human flourishing.

²¹⁴ Ibid., 241.

²¹⁵ Berlin, *Liberty*, 52.

²¹⁶ For evidence of this normative desire for personal liberty, see Skinner, *Visions of Politics, Volume 2, Renaissance Virtues*, 162.

Both positive and negative freedom, then, can be seen to fit the triadic structure. To do so, however, it is necessary to look beyond the actual concepts of freedom such theories hold and *apply* the triadic relation, rather than merely identifying the elements of freedom from and freedom to which MacCallum claims ought already to be there. MacCallum's theory of freedom is, nonetheless, useful in that it reminds us that underlying even negative theories of freedom are certain normative goals. For any social or political discussion of freedom, the identification of these normative aims seem to be crucial; without them, it is not clear what is the *meaning* of being free from interference—that is, freedom—for the agent in question. In asserting the importance of the barriers that might prevent freedom, MacCallum also directs us towards the necessary conditions for freedom, without consideration of which philosophical theories of freedom seem possible, but not political theories.

To fit both positive and negative senses of freedom into the triadic relation requires a good deal of stretching, however, and it may do less damage to positive and negative concepts of freedom to consider them both in relation to the normative goals of freedom and its conditions for realisation. These two elements seem to form part of a grammar of freedom that spans both senses of freedom without eliding what is distinct about the different theories' positions on what *constitutes* freedom.

This is a significant step forward in the search for a grammar of freedom that can be applied to the international system; it tells us that discussions about freedom will involve the necessary conditions for an agent to realise a particular normative end. This structure certainly seems able to capture a wide breadth of different theories of freedom. Theories of freedom that emphasise non-interference are concerned with the necessary conditions (an absence of interference) for an agent to realise the normative end of un-coerced choice. Republican theories of freedom are concerned with the necessary conditions (active civic participation, etc.) for the realisation of the normative goal of not being subject to the arbitrary will of others. Positive theories of freedom likewise consider necessary conditions (public spiritedness, for example), for an agent to reach the normative goal of realising their own nature. While seeming to accommodate both positive and negative strains of ideas about freedom and thus not being overly narrow, this potential grammar of freedom does seem to suffer from the opposite problem of being overly broad; the element of 'normative goals' could be applied to any number of valued ends, not all of which could be easily identified with freedom. For example, it may be normatively valued, by an individual or a society, to go to university. That does not mean, however, that university attendance has any relation to the freedom or unfreedom of the agent in question. On the other hand, it may, of course, be held to be the case that going to university increases one's freedom—because, for example, a degree will increase the range of career options

an individual will be able to choose from, or because of a belief that freedom consists of intellectual capacity. Likewise, attending university may be thought to diminish freedom—because, for example, university study promotes certain modes of thought, diminishing a person's freedom to truly think for themselves.

The normative goals that are associated with debates about freedom seem, therefore, to be of a particular type. In some of the most significant theories of freedom in political theory, and in everyday usage, the normative goals associated with debates about freedom relate to the concept of *self-mastery*. Mastery in its ordinary usage means “control or superiority over someone or something”.²¹⁷ Self-mastery, then, is control or superiority over the self. The concept of self-mastery is familiar to many theoretical approaches to freedom and is often thought of as akin to autonomy. The autonomous individual, which lies at the normative heart of much liberal theory, is one that has self-mastery, or control over themselves, in the sense that they are able to choose and make decisions without the interference of others. Self-mastery also implies the rejection of the mastery of others and hence invokes the status-oriented theory of freedom of thinkers in the republican tradition of not being subject to the arbitrary will of others. Self-mastery also encompasses theories of freedom that focus on internal constraints on freedom; to be self-mastering is to control the lower-order desires that would, if succumbed to, frustrate higher-order aims and wishes. Hence self-mastery chimes with theories that equate freedom with self-realisation or self-perfection;²¹⁸ in mastering, or accomplishing, their self, an individual succeeds “in realising an ideal of themselves” or, in some versions of positive freedom, realising the “essence” of “human nature”.²¹⁹

Self-mastery encompasses, then, the normative goals associated with a significant breadth of the canon of theories of freedom; freedom of choice, freedom from servitude, freedom from desire and self-realisation. When put into relation with the other elements of theories of freedom identified above, we are left with a grammar of freedom that suggests arguments about freedom are concerned with *the necessary conditions for an agent to be self-mastering*. This grammar of freedom remains broad; it leaves room for argument about what constitutes an agent or ‘self’, what constitutes self-mastery and what external environment is necessary for that realisation to be achieved. However, it is not so broad as to encompass any aim or value that an individual or individuals may hold and hence distinguishes freedom from other classes of normative goals.

²¹⁷ ‘Mastery’ in E. S. C. Weiner and J. A. Simpson, *The Oxford English Dictionary* (Oxford: Clarendon Press; Oxford University Press, 2004).

²¹⁸ Skinner, ‘A Third Concept of Liberty’, 239.

²¹⁹ *Ibid.*, 242.

If arguments about freedom are about the necessary conditions for an agent to be self-mastering, arguments about state freedom are a specific class of such arguments in which the agent in question is the state. Two objections may be made to the application of this structure to discussions of the state. The first is that changing the object of freedom may change the understanding of freedom employed. I see no reason, however, why changing the agent in question should alter what is at stake in arguments about its freedom. Certainly when discussing different agents the *theory* or *conception* of freedom may change; that is to say, there is no reason to believe that what constitutes freedom for a human individual will be the same as what constitutes freedom for a state. However, the very purpose of the grammar of freedom outlined above is to allow for a variety of understandings of what constitutes freedom. Although by considering the freedom of states I am examining the freedom of an agent that is not often thought of in terms of freedom, there is nothing novel about considering freedom in relation to a variety of agents, both individual and collective. Changing the referent object of freedom may involve a change in the conception of freedom, but if it were to involve a change in the *topic* then we would no longer be talking about the freedom of agents but some other quality.

The second objection may be that the state is not an agent and therefore an inappropriate referent object for freedom in the first place. The ontological status of the state, and whether it ought to be considered as an agent, is not a settled issue among scholars of international relations, although many scholars would assert that it is. In this thesis, I do not make an ontological claim about what the state *is*—whether or not it is an agent—but rather seek to investigate *how the state has been thought of* by practitioners of international relations. State agency itself is not a necessary condition for ideas of state freedom to have played a role in international relations. What is necessary is that the state has been believed to be an agent. Just as we would not discount the historical importance of ideas about the divine right of kings even if we did not believe royal authority to be bestowed by god, neither should we dismiss ideas about state freedom if we do not think the state is an agent. If states have been discussed *as if* they are agents, then there is reason to believe that they may have been thought of as free or unfree.

Ideas of state freedom and relations of control

In the previous section I argued that what are at stake in debates about freedom are understandings of the necessary conditions for the realisation of the self-mastery of an agent or agents. Ideas of freedom involve beliefs about the nature of the agent in question, what constitutes self-mastery for that agent, and what circumstances promote or hinder that self-mastery. When people are arguing about freedom, they are arguing about one or more of these three elements. Together they constitute a grammar, or form, that arguments about freedom take. When the agent whose self-mastery is being argued over is a state (or states) we can refer to such arguments as being about ideas of state freedom.

That discussion provided the necessary background for this section, which addresses directly the main question of the thesis. Having dealt with the issue of what I understand ideas of state freedom to be, I now discuss how such ideas have played a role in shaping world politics. Chapters Three to Five present historical demonstrations of that role, but here I draw on constructivist theoretical resources in order to lay out an argument that theoretically connects ideas of state freedom with the practice of world politics. The way that ideas about freedom have been implicated in the conduct of international relations, I argue, is through the politics of legitimacy. I argue that ideas about what constitutes freedom for states, and normative beliefs about whether and in what ways that freedom should be realised, legitimate and delegitimate certain *relations of control* between states. In this way, I contend, ideas of state freedom are implicated in constituting the social power of states, constraining and enabling them in important ways.

As I have argued, the normative concern at the heart of ideas about state freedom is the concept of self-mastery; the notion that an agent is self-governing, or in control of its own direction. There is nothing *necessarily* 'social' about such a concept; self-mastery could be seen to be affected by factors purely internal to the agent itself. An historically prominent understanding of freedom along these lines is the idea that people are free if their lower-order desires, or 'passions', are controlled by a higher, rational 'self'. Nonetheless, the way that I approach ideas of state freedom in this thesis has important social dimensions, and it is an understanding of these social dimensions of state freedom that illuminate the ways in which ideas about state freedom have been implicated in the conduct of international relations.

The first way that ideas about state freedom can be seen to be social is through the external aspects of state freedom. As with human freedom, state freedom could be understood as a purely internal quality; one that is facilitated or stymied purely on the basis of conditions or characteristics

understood to be inherent to the agent of the state itself. Historically, as we shall see, important arguments have been made about state freedom which have focused on internal aspects of states, such as their governmental form or material capability. However, the debates that are presented in Chapters Three to Five demonstrate the historical prominence of the notion that state freedom is affected by factors that go beyond the internal characteristics of the state.

One way in which external dimensions become relevant to arguments about state freedom is when they constitute part of the conception of self-mastery. As we saw above with respect to human freedom, for republican theorists freedom is not constituted by internal cognitive processes but rather by societal arrangements; the republican conception of freedom is inseparable from the environment within which human beings are embedded. Likewise, some ideas of what constitutes the freedom of states have been about the ways in which states interrelate. The second way that dimensions external to the state have been implicated in ideas of state freedom is through beliefs about the necessary conditions for its realisation. Even when ideas about state freedom have understood the self-mastery of states to be an internally constituted quality, the environmental conditions external to the state have been understood as significant for its realisation. Whether one views states as existing in a system or a society, the reality of states' existence is one of co-existence and interaction; no state is completely isolated and unaffected by the actions of other states. Unless one holds a conception of self-mastery that is completely unaffected by any external circumstances, ideas about state freedom and its realisation have an unavoidably social dimension.

These external dimensions of the grammar of freedom—the external dimensions of self-mastery, or the necessary conditions for its realisation—connect the conduct of international relations with ideas about freedom; they make the organisation and practice of international relations relevant for ideas about state freedom. In themselves, however, these external dimensions of state freedom do not do the inverse and make ideas about state freedom relevant for the conduct of international relations. In order to understand how ideas of state freedom are implicated in international practice it is necessary to reflect on their social nature in a second sense. The second way that ideas about state freedom are social is the way that they constitute part of the *ideational structure* of international relations. This notion—that ideas of state freedom constitute part of an international ideational structure—builds on broadly constructivist insights into the nature of international relations. Constructivism in IR rests on the fundamental insight that the social world—of which the international system is a part—cannot be understood without an appreciation of the ways in which

actors *interpret* the world around them.²²⁰ Human agents do not interact with an unmediated world of brute material facts, but rather operate within complex social structures that are constituted by “collective understandings” about the world.²²¹ From this basic ontological position, constructivists have built up a body of theoretical and empirical work that investigates the role of ideas in constructing, or constituting the social world.

Such an approach does not understand ideas to be individually held beliefs operating at a purely cognitive level within the minds of individuals. Rather, ideas form part of the social world and are understood as “collective knowledge, institutionalized in practice”.²²² Collective ideas are not merely individual beliefs that happen to be held by more than one actor. Rather, such ideas are understood as being *inter*-subjective in that they are socially held and “shared by all who are competent to engage in or recognize the appropriate performance of a social practice or range of practices”.²²³ Their social nature means that collective ideas confront “actors as...objective social fact[s] that cannot be wished away”.²²⁴ Because ideas do not exist only in the heads of individual agents but intersubjectively, they can be seen to constitute a *structure* within which agents operate. Moreover, because it is only through these intersubjective ideas that agents experience social reality, shared understandings of the nature of the world have a profound effect on those agents; they constrain and enable agents by socially proscribing and sanctioning certain behaviours, but also *constitute* agents by defining “what is cognitively possible and impossible”²²⁵ and by shaping their identities and interests.²²⁶

These constructivist insights provide a powerful theoretical groundwork for understanding how ideas of state freedom may have played a role in shaping the conduct of international relations. If we accept the constructivist argument regarding the role ideational, or normative, international structures can play in shaping international politics, it remains to be shown that ideas of state freedom constitute a significant part of it. Chapters Three to Five take up that task, and constitute a historically grounded demonstration that ideas about state freedom are not only identifiable in the practical discourse of international relations, but that they have constituted part of the normative

²²⁰ Emanuel Adler, ‘Seizing the Middle Ground: Constructivism in World Politics’, *European Journal of International Relations* 3, no. 3 (1997): 319–63.

²²¹ Ibid.

²²² Ibid.

²²³ Ira Cohen, quoted in *ibid.*, 327.

²²⁴ A. Wendt, *Social Theory of International Politics* (Cambridge Univ Pr, 1999).

²²⁵ Adler, ‘Seizing the Middle Ground’.

²²⁶ Christian Reus-Smit, ‘Constructivism’, in *Theories of International Relations*, 3Rev Ed edition (Houndmills, Basingstoke, Hampshire ; New York: Palgrave Macmillan, 2005), -.

structure of international relations, generating shared expectations about behavior and constituting state agency in important ways.

As noted above, ideas about state freedom have external dimensions that connect them to the ways in which international relations are conducted. At the core of ideas about state freedom is a conception of the self-mastery of the state; they are ideas about what it means for a state to be self-controlling or directing, and how that condition of self-mastery can be realised. Implicated in the realisation of states' self-mastery over their own existence has been their external environment, which is to say their relations with other states. The ways in which states interact, influence and affect each other have been understood to play a crucial role in determining whether or not states are free. Depending on what has been thought to constitute self-mastery for states, different international practices have been understood to be consistent or inconsistent with state freedom.

On its own, this connection between the realisation of state freedom and international practice is not enough to suggest that ideas of state freedom have played a role in the practice of international relations. However, the historical chapters that follow show that, since at least the mid-18th century a general normative preference in favour of the realisation of state freedom can be identified in international discourse. That is not to say that freedom has always been believed to mean the same thing for all states, or that it should apply equally to all states, but there has nonetheless been a deep assumption that freedom is an important element of statehood; being free is part of what makes states states and it ought, therefore, to be realised in practice.

It is this intersubjective belief that states should be free that implicates ideas of state freedom in the international ideational structure. If ideas of state freedom are ideas about what constitutes the self-mastery of the state, and if there is a shared expectation for that self-mastery to be realised, then ideas of state freedom create collective expectations about appropriate behaviour. Collective expectations that state behaviour should be consistent with the freedom of states are what make ideas of state freedom form part of the ideational structure of international relations. Because ideas of state freedom are concerned with the self-mastery of states—that is to say, the ability of states to control and direct their own existence—the category of inter-state relations that are relevant to ideas of state freedom are relationships of control and rule. The kinds of relationships and interactions that can be characterized as pertaining to inter-state control, rule or direction constitute the external dimensions of state freedom, and in this thesis I call them *relations of control*. Ideas of state freedom *structure* such relations by legitimating some relations of control and delegitimizing

others on the basis of whether or not they are understood to be consistent with the freedom of states.

By *structuring relations of control* between states, ideas of state freedom constitute part of the ideational structure of international relations and can be understood as social facts rather than individual beliefs. As will be shown in the chapters on non-intervention, sovereign equality and self-determination, by structuring relations of control, ideas of state freedom enable certain relations of control and influence between states while precluding others and in this way they constitute the agency of states. However, such relations are only produced and reproduced through the acceptance and practice of states, meaning that even if the relations of control constituted by ideas of state freedom are experienced as social facts, they are not immutable and can be subject to contestation by the very agents that produce them and are themselves produced by them.

The empirical focus of this thesis is on historical moments of contestation between different ideas of state freedom. Through the prism of debates about non-intervention, sovereign equality and self-determination I identify and illuminate different ideas about state freedom that have had currency in modern international relations. At such moments of debate we can see disagreement among the human agents of world politics about what constitutes the self-mastery of the state and what conditions are necessary for its realisation. Because such ideas structure relations of control between states, it is these relations that are at stake for the organisation of world politics when ideas of state freedom are contested. It is in the contestation and disagreement about ideas of state freedom that we can see the complex and interlocking nature of ideational structures in world politics, as well as the role of actors in their production, reproduction and evolution.

The way that these debates play out—and the way that relations of control are reconfigured—is through the politics of legitimacy. Over the past decade, IR scholars have paid increasing attention to the role of legitimacy in world politics,²²⁷ demonstrating its importance for the development of international norms. This thesis builds on such literature, showing that debates about state freedom are instantiations of what Ian Clark has called “*practices of legitimacy*”.²²⁸ If prevailing ideas about state freedom make certain relationships of control between states legitimate, or socially accepted, then debates about state freedom occupy the “political terrain” that exists between, on the one

²²⁷ See, for example, Mlada Bukovansky, *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture* (Princeton, N.J.: Princeton University Press, 2002); Ian Clark, *Legitimacy in International Society* (Oxford: Oxford University Press, 2005); Ian Clark and Christian Reus-Smit, eds., ‘Special Issue: Resolving International Crises of Legitimacy’, *International Politics* 44, no. 1 (May 2007).

²²⁸ Clark, *Legitimacy in International Society*, 3.

hand, accepted “principles of legitimacy” and, on the other, “actors’ strategies of legitimation”. This political terrain is “the meeting ground of norms, distributions of power, and the search for consensus”,²²⁹ and the arena where norms are “interpreted, developed, reconciled, transcribed, and consensually mediated”.²³⁰ As we will see, when states-people are arguing about ideas of state freedom, they are challenging or reinforcing the legitimacy of the relations of control that those ideas constitute. In doing so, they are making claims about the kinds of behaviours that states can legitimately engage in with respect to one another and hence about their power as social agents.

Conclusion

The aim of this chapter has been to introduce the theoretical argument that will frame the historical chapters that follow. I began by arguing that ideas are not reducible to the terms in which they are expressed. I showed that in the early modern period the terminology of state freedom was notable before it fell into obscurity as the prominence of its intellectual groundings of republicanism and natural law waned. I argued that the absence of the term state freedom does not necessarily denote the absence of the concept of state freedom and outlined an approach for identifying the former without the latter. This approach involves identifying debates about state freedom by looking for arguments that are about the necessary conditions for agents to be self-mastering. I then drew on constructivist approaches to IR to make an argument about how ideas of state freedom can be understood to have played a role in international relations. I argued that ideas of state freedom structure legitimate relations of control between states and thus constitute an important element of the ideational structure of international relations.

Ideas of state freedom by no means constitute the totality of the shared ideas that make up this normative structure. As will become clear in the historical chapters that follow, ideas of state freedom exist in relationship to, and are articulated through, a variety of connected concepts. Prominent among these concepts is sovereignty, the principle which more than any other is taken by international relations scholars to constitute states and order their relations. In international politics, shared ideas such as sovereignty (but also authority, independence, rights, responsibilities and others) pertain to the kinds of relations states have with each other; the levels and forms of control that they are understood to legitimately hold with respect to themselves and their fellow states. As

²²⁹ Ibid.

²³⁰ Ibid., 4.

such, these and other principles are consequential in structuring relations of control between states. To the extent that such principles, and the international institutions and practices associated with them, are understood to have relevance for the realisation or stymying of the self-mastery of states, they also form part of the vocabulary through which ideas of state freedom are expressed. Such principles cannot be equated with state freedom, however. Concepts such as sovereignty have their own distinct histories of changing meanings and dimensions of significance for international relations. Their exact relationship to state freedom is dynamic, contingent and particular to a given historical or empirical context. As the chapters that follow will show, at times principles such as sovereignty have, through the importance attached to them by the human actors of world politics, been significant in shaping the contestation between ideas of state freedom. At other times, ideas of state freedom can be seen to inform changes in shared understandings of the meaning and significance of such principles.

Chapters Three to Five are organised around three prominent concepts that have important, and varying, connections with state freedom; non-intervention, sovereign equality and self-determination. In them, I will reconstruct in detail a number of important debates about state freedom that have taken place since the mid-18th century and will illuminate the politics of legitimacy through which such ideas have conditioned international relations.

Chapter Three

Non-Intervention

Introduction

In Chapter Two I outlined a theoretical approach to understanding ideas of state freedom. I argued that what is at stake in debates about state freedom are ideas about the necessary conditions for states to be self-mastering. These elements together constitute a 'grammar' of freedom; when these elements are present, we can say that state freedom is being discussed. This gives us a way to identify ideas of state freedom even in circumstances when the terminology of state freedom is not used. I further argued that because ideas about state freedom pertain to the self-mastery and self-direction of states, they also structure relations of control between states. These relations can be formal, institutionalised relations of authority, or more informal relations of influence and compulsory power. Ideas of state freedom play a role in structuring such relations by legitimising relations of control which are consistent with a particular understanding of state freedom and delegitimising those that are not. In this way ideas of state freedom play an important, if neglected, role in the constitution of states' social power.

This chapter is the first of three that employ those theoretical arguments to historically analyse ideas of state freedom through the cognate concepts of non-intervention, sovereign equality and self-determination. Here, I focus on debates about non-intervention, and primarily address relations of *domination* between states, which I understand as relations of control that transgress normal boundaries of political authority. Non-intervention is a concept that is granted a privileged position by theorists of international relations and is understood as being fundamental to modern international order; a concept that is intimately related to relations of control between states. The way in which intervention is commonly understood in International Relations literature is as a violation of the basic ordering principle of modern international relations, state sovereignty. Sovereignty means that states have the right to supreme authority within their own mutually exclusive territories; they have the right to rule and to determine their own social and political order. Ensuring this sovereign right is the principle of non-intervention which dictates that states ought not to be interfered with by others in the system. In this way, non-intervention invokes liberal ideas which understand freedom as the absence of interference in the choices that people make.

Non-intervention is understood as a “cardinal” rule of international society,²³¹ a “*grundnorm*”,²³² an “elementary rule of orderly international relations” and a “minimum condition for [states’] orderly co-existence”.²³³ However, although intervention may be conceived of as an “act of transgression”,²³⁴ that does not mean that it ought to be seen as an indication of disorder. As this chapter will show, intervention has played a significant role in international relations as a mechanism for the construction and maintenance of international order. In international relations, attitudes toward, and practices of, intervention are products of higher-order beliefs and values that prescribe the contours of legitimate and illegitimate intervention. In this chapter I will show that one of the sources of changing understandings of (non-)intervention is changing ideas of state freedom. I do so by examining contestation about legitimate intervention to illuminate the ideas of state freedom that are implicated in that contestation. I examine two historical moments of prominent debate about non-intervention. The first is the years 1818-22, during which time the great powers in the Concert of Europe were engaged in a dialogue about the legitimate contours of the practice of intervention. In the second section I examine changing ideas about intervention that were prominent in the western hemisphere in the second half of the 19th and early 20th century.

During the Concert period I identify two ideas of state freedom; the *Dynastic Idea* and the *Self-Help Idea*. In the Self-Help Idea—which was identifiable in the British arguments about intervention—states were understood as unique political and moral orders, each with their own individual will. A state was self-mastering if it possessed the freedom to translate its will into action, unhindered by the domination of a single hegemonic state or general political obligations it owed to other states. The necessary conditions for the realisation of this idea of self-mastery were a balance of power between the great powers in order to prevent hegemony and a self-help, rather than collective, security system. The Dynastic Idea of state freedom, which was held by the Holy Alliance, had as a central tenet, a direct identification of the state with the dynastically legitimated sovereign. As a result of this conception of legitimate statehood, the self-mastery of states was understood as the control of the sovereign monarch over their population. The necessary condition for the realisation of this self-mastery was a collective guarantee of the preservation of the dynastic order, and the collective intervention of the great powers to quell popular revolt across Europe. I argue that these two ideas of state freedom led to different understandings of the purposes of the Concert of Europe

²³¹ Nicholas J Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2003), 11.

²³² Robert H. Jackson, *Quasi-States: Sovereignty, International Relations, and the Third World* (Cambridge University Press, 1993), 6.

²³³ R. J. Vincent, *Nonintervention and International Order* (Princeton University Press, 1974), 330.

²³⁴ Christian Reus-Smit, ‘The Concept of Intervention’, *Review of International Studies* 39, no. 05 (December 2013): 1065.

and legitimated different practices of intervention which ultimately led to Britain withdrawing from collective management of European affairs.

In my analysis of western hemisphere debates about intervention, I identify two further ideas of state freedom. In the *Paternalistic Idea* of state freedom, the self-mastery of states was understood as consisting of self-control in the sense of self-limitation and acting responsibly. A responsible state was one which embodied certain modern values and met the standards of 'civilisation'. This idea of state freedom legitimated intervention in the affairs of other states in order to preserve stability and further the progress of civilisation. Also identifiable in debates in the Americas was the *Categorical Idea* of state freedom. Self-mastery in this idea of freedom consisted of formal state independence plus the absence of foreign interference. The necessary condition for the realisation of this self-mastery was, therefore, an absolute and unconditional right of non-intervention. In this section I detail the role the Categorical Idea of state freedom played in Latin American arguments that contributed to the US renouncing its right to intervene in their affairs as it transformed its social role from one of a hemispheric 'policeman' to that of a 'good neighbour'.

State freedom in the Concert of Europe: self-help and collective security

The French Revolution in 1789 marked the beginning of a period of intense flux in the European international system. The ideas about popular sovereignty and democracy that undergirded the revolution profoundly challenged the traditional European bases of political authority, and monarchical regimes across the continent keenly felt the threat of their spread. The aggressive French military campaigns that followed the revolution, meanwhile, constituted an acute material threat to the prevailing European order. The dominant principle in the European system prior to the Revolution was that of the balance of power, which was understood as providing a basic liberty of states and of the system as a whole; as long as no state became so powerful as to be able to subject the other states in the system to its rule, the independence of states, and the liberty of Europe, was secured.

Napoleon's attempt to "establish mastery in Europe"²³⁵ provoked a concerted military and diplomatic response by the other major European powers that would, in the first half of the 19th

²³⁵ Ian Clark, *The Hierarchy of States*, Cambridge Studies in International Relations (Cambridge University Press, 1989), 106.

century, both stem from and challenge the 18th century understanding of the liberty of states. The balance of power remained the fundamental principle of the settlement agreed on at the Congress of Vienna in 1815, which had redrawn the territorial boundaries of Europe in the wake of French expansion and then defeat. In this way, the post-Napoleonic European order preserved and loosely institutionalised the idea of state freedom as an absence of foreign hegemony that had been prominent in the 18th century. However, in bringing the European Great Powers into closer cooperation and increased interdependence, the 'Concert of Europe' system that developed out of the Congress of Vienna also resulted in that idea of state freedom being contested in significant ways.

In this section I examine the debates between the Great Powers about the contours of legitimate intervention that took place in the years following the Congress of Vienna. In these debates, it is possible to identify two incompatible ideas of state freedom being contested—incompatible in the sense that they legitimate and delegitimize different configurations of relations of control between states. On the one hand, the British foreign secretary Lord Castlereagh defended a Self-Help Idea of state freedom. In this understanding of state freedom, the state was understood as an authoritative, territorially-bounded entity that was identifiable with neither its population nor its rulers at any given time. At the core of the Self-Help Idea of state-freedom was the belief that self-mastery was the freedom of the political institutions of the state to determine their own policies, neither subject to the supremacy of other states nor bound to them through general obligation. The necessary conditions for the realisation of this understanding of self-mastery had two significant implications for legitimate relations of control between states. First, it meant that states had a general obligation not to intervene in the affairs of others; if states were subject to foreign dictation, either temporary or permanent, their existence as independent states was compromised. Second, the Self-Help Idea of self-mastery nonetheless meant that states had a right to intervene in other states if they judged their safety or vital interests compromised. The supreme principle of international affairs was the right of states to determine for themselves the action that was necessary to preserve their independence, even if that meant interfering in the sovereignty and independence of other states.

Alongside the Self-Help Idea of state freedom, the 'Holy Alliance' of autocratic states—Austria, Prussia and Russia—exhibited a Dynastic Idea of state freedom. In one sense, this idea of state freedom was backward-looking in that it associated state agency not with an abstract territorial entity, but rather the dynastically legitimated monarch. As a result of this identification of the state with the person of the monarch, for the Holy Alliance, the self-mastery of the state consisted of the

control the sovereign person had over their population. The necessary conditions for this self-mastery to be realised was a calm and tranquil Europe that was free from revolutionary fervour and the threat of popular revolt. This Dynastic Idea of state freedom thus justified a general right on the part of the dynastic monarchies to intervene in other states to quash popular revolt.

The role that these two ideas of state freedom—Self-Help and Dynastic—played in the constitution of the social power of states can be seen in the debates over how to reorganise European international relations following the French hegemonic threat. In debates about the nature and scope of the cooperation between the Great Powers in the years following the defeat of Napoleon, and particularly in disagreements about the contours of legitimate interstate intervention, Great Britain and the Holy Alliance were engaged in a struggle over how relations of control between states ought to be configured. While the core principle of the international order established at Vienna was the rejection of hegemony by any single power, the Concert of Europe added an “embellishment onto the operation of the balance system” of the 18th century, requiring that the balance of power “should be sanctioned and legitimised by the European Concert of Great Powers”.²³⁶ It was the exact nature of this ‘embellishment’ of Great Power management and the kinds of international relations it instituted that was contested.

For Britain, the cooperation between the great powers was motivated by the need to resist France and preserve the freedom of European states in the face of Napoleon’s hegemonic aspirations. Further joint action was to be limited to the same purpose; to ensure the preservation of the territorial settlement agreed upon at Vienna and to thwart any further designs on supremacy in Europe by a single state. The proposals of the Holy Alliance, meanwhile, suggested a system of mutually obligating collective security that would secure the existing dynastic order against the threat of popular revolt. Carsten Holbraad, summarising the great powers’ different understandings of the Concert of Europe, notes that for Britain, it was as an:

[Alliance] of great powers established by treaties and formal declarations, not a union of sovereigns founded in common sentiments and interests; about the external freedom of the members of the states system, not the internal condition of the parts of the society of Europe; about the threat of aggression not the danger of revolutions.²³⁷

²³⁶ Ibid., 120.

²³⁷ Quoted in *ibid.*, 123.

The British position grew out of a long tradition of associating the liberty of states with the absence of hegemonic power and, specifically, resistance to French expansion.²³⁸ Drawing on the work of historians Brendan Simms and Steven Pincus, Richard Devetak has shown that the political goal of liberty was a significant element of 17th and 18th British political thought. This liberty was two faced, with an internal aspect relating to individual civil liberties against arbitrary power, and an external aspect concerned with the liberty of nations threatened by the power of Louis XIV's France. According to Simms, it was the imperative to protect the "liberties of Europe"—that is, the independence of states, secured by the balance of power—by checking French power through war that led to the invitation to William of Orange to take the British crown. When William did wage war on Catholic France, the aim was not to impose Protestantism, but rather to restore European order and protect the liberties of states by preventing France from "realising its goal of universal monarchy in Europe".²³⁹

Devetak argues that the balance of power was embraced "as an instrument in maintaining liberty and fighting tyranny", and that it was "grasped as an indispensable ordering practice in maintaining Europe as a system of free states". This appreciation of the balance of power as a freedom-preserving institution continued into the 18th century, with hegemony rejected in favour of "[t]he idea of the freedom of all states, of the equal right of all to exist, accepting competition yet subscribing to a measure of order in that competition".²⁴⁰

When, around the turn of the 19th century, the idea of a European order based on independent free states was confronted with French revolutionary ideology and Napoleon's hegemonic ambitions, it provoked a determined response from other European states and prompted repeated coalitions against the threat of French tyranny. Following the military defeat of France by the Sixth Coalition, the four powers of the Quadruple Alliance—Austria, Great Britain, Prussia and Russia—turned their attentions to the re-establishment of continental order. It was with this aim in mind that the Congress of Vienna was convened to determine the redrawing of territorial boundaries following Napoleon's annexations and the collapse of the Holy Roman Empire. As well as establishing the post-Napoleonic map of Europe, the Congress of Vienna also established a system of managing European affairs—the Concert of Europe—that consisted of sporadic meetings of the Great Powers to decide upon shared action in response to European issues.

²³⁸ Richard Devetak, "'The Fear of Universal Monarchy': Balance of Power as an Ordering Practice of Liberty", in *Liberal World Orders*, ed. Timothy Dunne and Trine Flockhart (Oxford University Press, 2013).

²³⁹ *Ibid.*, 135.

²⁴⁰ René Albrecht-Carrié, *The Concert of Europe*. (New York: Walker, 1968), 26.

This period of 'Concert' was a significant development in the governance of international affairs, understood by the participants as being “without precedent”.²⁴¹ The novelty of the concert system has been identified as its cooperative and associative nature,²⁴² and the notion that all the principal European powers should “bind themselves mutually to protect and support each other”²⁴³ in safeguarding one another's rights and possessions unquestionably marks a notable innovation in collaborative spirit. From the outset, however, the desire for joint action among the major powers masked significant schisms in understandings of the purposes and competency of this general alliance. Informing these differing positions were the Dynastic and Self-Help Ideas of state freedom. These conflicting ideas manifested themselves in different doctrines of intervention, and it is by reconstructing debates between the European powers on that subject that I draw them out. These differences in interventionary doctrine were first in evidence at the meeting of the Concert in Aix-la-Chapelle in 1818, and then fully precipitated in discussions in response to revolutions in 1820 in Spain and Naples. Diplomatic dialogue surrounding those three events is the focus of my analysis.

Aix-la-Chapelle

The attempt of the Great Powers to collaboratively manage European affairs was initially instituted in the first Treaty of Paris, which restored peace with France and called for all parties of the war (including defeated France) to meet in a General Congress in Vienna to settle the many territorial issues thrown up by the Revolutionary and Napoleonic Wars.²⁴⁴ Following the 100 Days War that took place after Napoleon absconded from exile in Elba, the Second Treaty of Paris, signed on November 20, 1815, provided for the continuation of the practice of convocations of major powers for the purpose of promoting European peace. It was to this end that a meeting at Aix-la-Chapelle was convened in the autumn of 1818, largely to address questions of the occupation of France by the allies (which had been in place since the final defeat of Napoleon by the Seventh Coalition) and the indemnity placed upon the French as part of the second Paris peace treaty.²⁴⁵ During this congress the differing positions within the coalition on the subject of intervention were first articulated and it became apparent that the Great Powers had differing interpretations of the

²⁴¹ Martha Finnemore, *The Purpose of Intervention : Changing Beliefs about the Use of Force* (Ithaca: Cornell University Press, 2003), 110.

²⁴² Ibid.

²⁴³ William Pitt, memorandum of January 1805, quoted in G. John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars* (Princeton University Press, 2009), 100.

²⁴⁴ Albrecht-Carrié, *The Concert of Europe.*, 30.

²⁴⁵ Ibid., 36.

treaties of peace that concluded war with France and the final acts of the Congress of Vienna. Great Britain, on the one hand, understood the agreements in a limited sense, with the purpose of the alliance understood to guard against the potential for renewed French aggression. To Britain, Napoleon's aggressive drive for hegemony was what drew the Coalition together and that limited purpose gave it its reason for being. The Congress of Vienna, meanwhile, was interpreted as instituting a defensive alliance that guaranteed the territorial settlement agreed upon at the congress.

The Russian Tsar Alexander, by contrast, had a broad interpretation of the concert system as guaranteeing not only the territorial settlement reached at Vienna, but also the existing, dynastic, political order of Europe.²⁴⁶ Extrapolating from the instability emanating from France after the 1789 revolution, Alexander made a general link between internal revolution and international aggression, and proposed that it was the responsibility of the Quadruple Alliance to protect Europe from the danger of domestic upheaval. According to a lengthy memorandum circulated by Russia on 8 October 1818, Alexander's interpretation of the treaties of Paris and the Congress of Vienna was that they constituted an "alliance générale" which had as its purpose "[l]a garantie solidaire de l'état de possession territoriale statué par ces actes" and "[l]a garantie solidaire de la souveraineté légitime *ab antiquo* ou reconnue par des traités en vigueur".²⁴⁷ This 'joint guarantee' meant that the great powers had a duty to both restore and preserve the French monarchy, and to prevent the overthrow of other European monarchies by popular revolt.

As Henry Kissinger notes, Alexander's understanding amounted to a "doctrine of general interference in the domestic concerns of all states superimposed on a system of collective security",²⁴⁸ and the suggestion that the alliance would act as a guarantee of sovereignty according to historical legitimacy was a radically broader interpretation of the treaties than that of Great Britain. In response to Alexander's communication, the British plenipotentiaries at Aix-la-Chapelle circulated their own memorandum outlining Britain's interpretation of the peace treaties of 1814 and 1815. In it, Foreign Secretary Lord Castlereagh outlined in detail the British position on the nature of the alliance, the limits on the collective management of European affairs, and the British doctrine on intervention.

²⁴⁶ Arthur Wellesley of Wellington, *Supplementary Despatches, Correspondence, and Memoranda* (Murray, 1865), 744.

²⁴⁷ *Ibid.*, 749 'The joint guarantee of the state of territorial possession decreed by these acts' and 'the joint guarantee of legitimate sovereignty *ab antiquo* or recognised by existing treaties'.

²⁴⁸ Henry Alfred Kissinger, *A World Restored* (London: Gollancz, 1974), 226.

The British memorandum was clear that the “avowed principle and object” of the treaties was limited to the “restoration and conservation of Europe against the power of France”.²⁴⁹ Although the treaties constituted a “general pact” on the regulation of the issues precipitated by the wars that followed the French Revolution, they did not “impose” any “positive obligation” on the part of the powers to enforce their “observance” and did not even “form an alliance in the strict sense of the word”.²⁵⁰ In response to Alexander’s assertion that it was the duty of the powers to restore and maintain the French monarchy, Castlereagh argued that it was not “competent” for the Allies to consider a change in the French political order, regardless of how it was brought about, as something they were “entitled to take notice of” beyond the question of “how far that change goes immediately to endanger their own repose and safety”.²⁵¹ In other words, France had the right to political independence, to determine its own political constitution. France, and its rights as a state, was distinct from its former monarchy, and France’s internal arrangements were within the purview of other states only if they were directly threatened by them.

The allied powers had clearly interfered in France through the stationing of troops within French territory. However, that intervention was temporary, limited in scope and addressed to the specific threat that France had posed to the political independence of European states. The Memorandum argued that the Treaty of Alliance between the four powers:

[Proceeds] upon the principle that after the army of occupation should be withdrawn the Allies could only justify an interference in the affairs of a foreign State upon the ground of considering their own safety compromised, and that, independently of such a consideration, they could not justly claim any right of interference, or in prudence charge themselves with the task of redressing violations of the internal Constitution of France.²⁵²

Although the British government had a clear preference for the restoration of the Bourbons to the French throne,²⁵³ they refused to interfere with the French domestic order beyond the removal of the Bonaparte family; an interference that was justified on the basis that it had repeatedly been guilty of attempts to establish hegemony over Europe. Not only was there no obligation on France to

²⁴⁹ Castlereagh quoted in Albrecht-Carrié, *The Concert of Europe*, 38.

²⁵⁰ Castlereagh quoted in *ibid.*, 37.

²⁵¹ Castlereagh quoted in *ibid.*, 39.

²⁵² Castlereagh quoted in *ibid.*, 40.

²⁵³ As Castlereagh wrote in 1815: ‘[Louis XVIII] cannot wish us to feel more decisively the importance of his restoration than we do. And most assuredly every effort will be made to conduct the war so as to lead to this result, but we cannot make it a *sine qua non*. Foreign powers may justly covenant for the destruction of Bonaparte’s authority as inconsistent with their safety, but it is another question avowedly to stipulate for his successor. This is a Parliamentary delicacy’. Quoted in Kissinger, *A World Restored*, 178.

“preserve inviolate” its internal order, but it would have been “impossible” for the allies to make such a demand. The reason for this ‘impossibility’ was that “no state of things could be more humiliating than that of a State which should be bound to its neighbours to preserve unchanged its internal system, and that any fundamental change in it, without their consent first had been obtained, should in itself be cause of war”.²⁵⁴ Even a more limited demand that any change in the French constitution should be legally made, rather than enforced by revolutionary elements, would be no less impossible “for how can foreign States safely be left to judge of what is legal in another State?”²⁵⁵

States, then, have neither the right nor the ability to pass judgement on the international constitution of their neighbours. There was no intersubjective principle of legitimate statehood that justified great power intervention. For Britain, the state was not identified with any particular ruler, government, or principle, but was rather an exclusive and bounded political order. The notion that nothing could be more humiliating for a state than have the nature of that political order determined by an external actor demonstrates how crucial an element of statehood was the self-determination of political systems. In itself, however, this political independence of states to determine their own political system does not constitute self-mastery of states. Although the self-determination of a state’s political constitution was a crucial criterion to be able to say that states were in any sense self-mastering, Britain’s response to Russia’s position also demonstrated a second essential element of statehood over which states must retain control. This second issue was not concerned with the ‘humiliation’ of France or any other state that might suffer from great power intervention, but rather the obligation that a general alliance guaranteeing ‘legitimate sovereignty’ across Europe would put Britain itself under.

In response to Alexander’s proposed system of ‘collective security’, Castlereagh wrote that although a “universal Alliance for the peace and happiness of the world” had “always been one of speculation and hope” it had “never yet been reduced to practice” and never could, he opined. Although the Quadruple Alliance may have gone further than any other previous steps in that direction, it nonetheless was “formed upon principles altogether limited”. The Alliance advanced cooperation between states without “transgressing any of the principles of the law of nations or failing in the delicacy which they owe to the rights of other States”. Prominent among those legal principles was the political independence of states, a notion that Britain saw as incompatible with Alexander’s proposals. As Castlereagh noted:

²⁵⁴ Castlereagh quoted in Albrecht-Carrié, *The Concert of Europe.*, 40–41.

²⁵⁵ Castlereagh quoted in *ibid.*

The idea of an “Alliance Solidaire,” by which each State shall be bound to support the state of succession, government and possession within all other States from violence and attack, upon condition of receiving for itself a similar guarantee, must be understood as morally implying the previous establishment of such a system of general government as may secure and enforce upon all kings and nations an internal system of peace and justice.²⁵⁶

An ‘Alliance Solidaire’, then, by ‘enforcing’ a political system upon states amounts to a fundamental deviation from a system of independent states. Until states devise a “mode of constructing such a system”—a utopian fantasy for Castlereagh—the “consequences” of a general guarantee of existing sovereigns were “inadmissible”. The reason for this inadmissibility was that for independent states “nothing would be more immoral or more prejudicial to the character of government generally than the idea that their force was collectively to be prostituted to the support of established power without any consideration of the extent to which it was abused”. Although the great powers could “continue consulting together” and “interposing from time to time their good offices”, the basic principle of the European system must remain self-help:

Till...a system of administering Europe by a general alliance of its States can be reduced to some practical form, all notions of general and unqualified guarantee must be abandoned, and States must be left to rely for their security upon the justice and wisdom of their respective systems, aided by such support as other states may feel prepared to afford them”.²⁵⁷

The interpretation of the British was clear; absent the fanciful transcendence of a system of politically independent states, states were responsible for their own security. The notion that the armed forces and foreign policy action of a state could be outside of their free control was a moral outrage.

Although the British position in the Concert period is often characterised as advocating non-intervention in contrast to Austria, Russia and Prussia’s interventionary approach, the fundamental understanding of states as being in control of their own security and vital interests meant that the right to non-intervention was significantly qualified:

The only safe principle is that of the law of nations: that no State has a right to endanger its neighbours by its internal proceedings, and that if it does, provided they exercise a sound discretion,

²⁵⁶ Castlereagh quoted in *ibid.*, 42.

²⁵⁷ Castlereagh quoted in *ibid.*

their right of interference is clear.²⁵⁸

The priority that Britain granted to self-help over non-intervention is crucial for understanding the idea of state freedom prevalent in Great Britain in the first half of the 19th century. For a state to be properly in control of itself and its destiny, it was more important for it to be autonomous in its response to threats than for it to be assured in its freedom from the interference of other states. This crucial interventionary right advocated by Britain is a significant exception to non-intervention which is at odds with contemporary understandings. However, the denial of a *general* right to intervene to preserve existing arrangements of political authority was also a significant divergence from the Russian vision of the management of the European political system.

Questions relating to France's rehabilitation of a member of European society were easily settled at Aix-la-Chapelle; France's remaining debt was dropped, the occupation ended and France was assured of the "place that belongs to her in the European system".²⁵⁹ The four powers plus France—now rehabilitated—reaffirmed the "principle of intimate Union" with respect to their common relations and interests for the "Maintenance of general Peace".²⁶⁰ However, Napoleon's attempt to gain mastery over Europe had shaken the 18th century international consensus on how interstate relations ought to be conducted and what relations of control between states were legitimate. At Aix-la-Chapelle the seeds of disagreement over those issues were established with respect to doctrines of intervention. For Russia the legitimacy of 18th century dynastic order and the illegitimacy of states experiencing popular revolt gave powerful, established states the freedom to intervene to influence such events. For Britain, the freedom of states to establish their own internal character meant intervention by other powers was illegitimate unless faced with a direct threat of aggressive behaviour. In subsequent years of the Concert system, the conflicting ideas about state freedom that had begun to be exhibited at Aix-la-Chapelle, and the politics of legitimacy about the relations of control those ideas implied, would be played out with respect to particular cases of potential intervention. The next sections examine two such cases; that of the military revolt in Spain, 1820, and the 1821 popular uprising in Naples.

Spain

The differences between the Russian and British interpretations of European relations outlined

²⁵⁸ Ibid., 41.

²⁵⁹ Protocol of the Conference of Aix-la-Chapelle, quoted in *ibid.*, 44.

²⁶⁰ Protocol of the Conference of Aix-la-Chapelle, quoted in *ibid.*

above did not destroy the Quadruple Alliance at Aix-la-Chapelle. Nor were the differences resolved during the Congress, however. Rather, they were merely side-lined by the diplomacy of Prince Metternich, Foreign Minister of the Austrian Empire. While accepting the principle put forward by the Tsar, Metternich, knowing that such a proposal could not be accepted by Great Britain, convinced Alexander that his *Alliance Solidaire* was rendered superfluous by the pre-existing Holy Alliance. Alexander withdrew the proposal while Castlereagh believed he had made the British position clear and interpreted the withdrawal of the Russian proposal as tacit acceptance of it.²⁶¹ Although contained at Aix-la-Chapelle, the possibility remained that political events would again bring the underlying schism in the alliance into view. Given the political instability in continental Europe at the time, it did not take long for that possibility to become a reality. The tensions in the alliance managed to survive Austrian intervention in response to revolution in Germany in 1819,²⁶² but in 1820 the revolts in Spain and in Naples caused differences in doctrines of intervention to resurface.

In January 1820, a group of soldiers began a mutiny in Cádiz, Spain, demanding that King Ferdinand VII reinstitute the liberal Spanish Constitution of 1812. As the revolt spread, Ferdinand was taken prisoner and obliged to proclaim the former Constitution. Russia was prompted by these events to circulate an invitation to the allies to discuss common action in response to unrest in Spain.²⁶³ The Russian proposal to intervene prompted a response from Castlereagh—his famous 'State Paper' of 5 May—which has been taken to define the British position on intervention in the Concert period. In this lengthy document, Castlereagh sets out a number of significant arguments about the nature of control both within and between states, and their rights and duties. The main thrust of Castlereagh's argument is a repetition of the British position at Aix-la-Chapelle; states have a general right to non-interference from other states but also a more fundamental right to determine when their own independence is threatened by other states. Provided their own aims are not aggrandisement and mastery over other states, a state can then rightfully forcibly intervene beyond their borders.

This argument about intervention stems from more fundamental understandings of the nature of states. Great Britain's position is an essentially individualistic one; states are diverse entities that have their own wills and sentiments which, provided they do not threaten the independence of their fellow states, ought to be free to act in pursuit of that will. The State Paper again demonstrates Castlereagh's basic position that the purpose of the alliance was limited to protecting the independence of states from French mastery over Europe, describing it as a "Union for the re-

²⁶¹ Kissinger, *A World Restored*, 226–7, 229.

²⁶² *Ibid.*, chap. 13.

²⁶³ *Ibid.*, 248–9.

conquest and liberation of a great proportion of the Continent of Europe from the military dominion of France".²⁶⁴ In a clear rebuttal of what he saw as an attempt by Alexander to interpret the alliance in such a way that legitimated novel relations of control between states, Castlereagh asserted it was never the intention to unite "for the government of the world or for the Superintendence of the affairs of other States". The allies should beware, therefore, of "any attempt to push its duties and obligations beyond the Sphere which its original conception and understood Principles will warrant".²⁶⁵

There were two reasons informing Castlereagh's rejection of a joint guarantee of historically-legitimated sovereignty. The first is the basic presumption of the European system as constituted by independent states that are not subject to a higher authority. The second reason is that states ought not to be subject to obligations to other states beyond those of a specific, limited nature. Both of those reasons are based in a conception of states as possessing their own individual will and a normative belief that they ought to be able to pursue their will via their own means.²⁶⁶ These ideas are drawn out in Castlereagh's discussion of the case of Spain.

The State Paper shows a keen appreciation of "general danger" to the European order and the "stability of all existing Governments" carried by the contemporary European fervour for the "representative principle". The British government also recognised the worrisome and "lamentable" situation of Spanish King being coerced into constitutional change.²⁶⁷ However, although there was "no doubt" Spanish events "seriously [extended] the range of political agitation in Europe",²⁶⁸ they did not meet the threshold of danger to justify intervention on the part of other states:

[It] must...be admitted that there is no portion of Europe of equal magnitude, in which such a Revolution could have happened, less likely to menace other States, with direct and imminent danger, which has always been regarded, at least in this Country, as alone constituting the Case which would justify external interference.²⁶⁹

The threshold of 'direct and imminent danger' was that which had to be reached in order to justify a breach of the right to non-intervention. The 'general danger' of European unrest did not, for the

²⁶⁴ AW Ward and GP Gooch, eds., *The Cambridge History of British Foreign Policy, 1783-1919. 1815-1866 Vol 2* (Cambridge: Cambridge University Press, 1923), 626.

²⁶⁵ *Ibid.*, 627.

²⁶⁶ Provided that those means do not threaten the basic principle of the independence of states.

²⁶⁷ AW Ward and GP Gooch, *The Cambridge History of British Foreign Policy, 1783-1919. 1815-1866 Vol 2*, 627.

²⁶⁸ *Ibid.*

²⁶⁹ *Ibid.*

British, translate into a general right of intervention. For the absolutist powers—Austria, Prussia and Russia—“political agitation” in itself was deemed threatening enough to warrant intervention. However, the difference in opinion over whether or not intervention was justified in Spain was not the result of a different interpretation of the level of threat posed by the Spanish revolt. Rather, it was a different understanding of what the situation in Spain was a threat to. As we have seen, Alexander’s understanding of the Concert was that it was a union to preserve the *common* value of historically-legitimated sovereignty. As this was a shared, international value, an attack on the principle in Spain was an attack on the whole order based upon that value. For Britain, Spain would be a danger only when it represented a military threat, and would be a *common* danger, justifying joint intervention, when it was a threat to the balance of power in Europe as a whole.

For Britain, “the notion of revising, limiting, or regulating the course” of constitutional changes in other states “either by Foreign Council or by Foreign Force, would be as dangerous to avow, as it would be impossible to execute”.²⁷⁰ The ‘general danger’ of European unrest did not, for the British, translate into a general right of intervention. Although the “principle of one State interfering by force in the internal affairs of another in order to enforce obedience to the governing authority” can be legitimate in the face of “actual danger”, to “generalize such a principle and to think of reducing it to a System, or to impose it as an obligation, [was] a scheme utterly impracticable and objectionable.” Such a system would suffer from both a “physical impossibility” and a “moral impracticability.”²⁷¹

This moral impracticability had two aspects. The first is the general assumption that states, provided they are not a threat to the independence of other states, should be self-determining with respect to their own political constitution. As long as the great powers “security [was] not directly menaced”, they could:

surely permit these Nations to work out by their own means, and by the lights of their own Councils, that result which no doubt materially bears upon the general Interests of the World, but which is more especially to decide their own particular destinies, without being led to interfere with them.²⁷²

The absence of interference is, however, not the only, or even the most crucial condition for states to be able to ‘decide their own destinies’. The second, and more important, aspect to the moral impracticability a general system of intervention would pose is the obligations it would place on Great

²⁷⁰ Ibid., 626.

²⁷¹ Ibid., 631–2.

²⁷² Ibid., 631.

Britain and the other members of the alliance. Although the power relations between the great powers in such a system might be horizontal—rather than a hierarchical, interventionary relationship—it would nonetheless strip the great powers of a crucial aspect of their self-mastery. To make a general commitment to guarantee dynastic sovereignty would intertwine states in each other's affairs in such a way that was incompatible with their essential prerogatives of statehood.

In defending his position against intervention in Spain, Castlereagh made an argument about the essentially diverse and individual nature of states. In contrast to the solidarism of Alexander's rallying call to defence of dynastic sovereignty, Castlereagh pointed to the differences in the nature of British and Russian constitutions. While for Russia, if Alexander's "Mind [was] settled" on the matter of intervention, "His Action [was] free and His Means [were] in his own hands", for Britain Parliamentary and public opinion were crucial in determining what a government could and could not do.²⁷³ An intervention in Spain on the part of the great powers would have "more or less the air of dictation and of menace".²⁷⁴ During the Concert period, Castlereagh had constantly to negotiate a domestic suspicion of involvement in European affairs because of its association with intervention and tyranny.²⁷⁵ Indeed Castlereagh was himself accused by one pamphleteer of having "laid the foundations of universal despotism" by bringing Britain into the Vienna system.²⁷⁶ However, while the relative constitutional arrangements in Russia and Britain may have given a Russian emperor greater freedom of action than a British foreign secretary, that did not mean that Russia was self-mastering while Britain was not. The constraints on Castlereagh and the British government by its constitutional fetters was not something that perturbed Castlereagh; as we have seen, the right to determine one's own political form was a fundamental state right in British opinion. The way in which a state's will was determined was a question of its internal political form. The fact that the British government had to "take [its] Principle of action, and [its] scale of acting...from those Maxims, which a System of Government strongly popular, and national in it's character, has irresistibly imposed upon [it]" was plainly a matter of fact for Castlereagh and a simple product of Britain's constitution.²⁷⁷ What was deeply troubling for Castlereagh was the possibility that the *actions* of a state could be determined by something other than the *will* of that state. States being essentially different in character, they were also necessarily different in will:

²⁷³ Ibid., 628.

²⁷⁴ Ibid.

²⁷⁵ See generally Kissinger, *A World Restored*.

²⁷⁶ Anon., Political Epitaphs. No. 1. Mr. Canning ... No. 2 ... Lord Castlereagh, Etc. [A Satire.]. Quoted in John Bew, 'Intervention in the Wake of the Napoleonic Wars', in *Humanitarian Intervention: A History*, ed. Brendan Simms and D. J. B. Trim (Cambridge University Press, 2011), 121.

²⁷⁷ Castlereagh quoted in AW Ward and GP Gooch, *The Cambridge History of British Foreign Policy, 1783-1919. 1815-1866 Vol 2*, 632.

The fact is that we do not, and cannot feel alike upon all subjects. Our Position, our Institutions, the Habits of thinking, and the prejudice of our People, render us essentially different. We cannot in all matters reason or feel alike.²⁷⁸

That being the case, to extend the alliance, and states' mutual obligations, would be to "render" it an "Object of Odium and Distrust".²⁷⁹ The only safe option was to maintain the limited, specific purpose of the alliance, to ensure that: "[each] Government will then retain it's due faculty of independent Action, always recollecting, that they have all a common Refuge in the Alliance, as well as a common Duty to perform, whenever such a Danger shall really exist, as that against which the Alliance was specially intended to provide".²⁸⁰

During the crisis in Europe over the Spanish revolution, Metternich's diplomacy was once again successful in avoiding in a total breakdown of the alliance over the issue of intervention.²⁸¹ However, Castlereagh's State Paper clearly emphasised the differences between the British and Russian positions. The strain put on the Concert System by these differences were soon to become unbearable when Europe experienced further domestic upheaval.

Naples

Less than two months after the circulation of Castlereagh's State Paper, the allies again faced the question of whether or not to intervene to quell domestic revolt when, on 2 July 1821, revolution broke out in Naples. Austrian predominance in Italy was one of the "pillars" of Metternich's European policy and the Empire's level of influence in Naples was underlined by a treaty between the two that prohibited constitutional change in the latter without consultation with the former.²⁸² It was clearly unlikely that Austria would leave the Neapolitan revolution to run its course, and intervention to restore the King seemed certain. The issue to be determined by the major powers was less that of whether or not intervention was justified and more the form this intervention would take; would it be an Austrian action, undertaken alone, to protect its legitimate national interest of self-defence, or would it be a multilateral response carried out in order to guarantee the European political order?

²⁷⁸ Castlereagh quoted in *ibid.*, 629.

²⁷⁹ Castlereagh quoted in *ibid.*

²⁸⁰ Castlereagh quoted in *ibid.*

²⁸¹ Kissinger, *A World Restored*, 250–1.

²⁸² *Ibid.*, 251.

The position of Great Britain on this question was unsurprising. Britain was not against intervention in Naples; there was a specific treaty relationship and geographical proximity between the two states and it was for Austria to judge if the situation in Naples warranted interference. The Neapolitan revolution was not a threat to independence in Europe as a whole, however, and Britain herself was “not so...immediately menaced according to the doctrines...which have hitherto been sustained in the British Parliament [to] justify it becoming party to an armed interference”.²⁸³ Castlereagh advocated, therefore, unilateral Austrian action with no general European involvement:

“We can give a much stronger moral support to a cause which is not strictly our own than to one to which we are an active party. The revolution should be treated as a *special* rather than a *general* question, as an *Italian* question rather than as an *European*, and consequently as in the sphere of *Austria* rather than of the *Alliance*”.²⁸⁴

Castlereagh was unsuccessful, however, in his attempts to cajole Metternich into acting alone, and a congress was called which met in November 1820 in Troppau. Neither Britain nor France sent plenipotentiaries, though they did send observers, with Britain making a clear and principled objection to even the discussion of the internal affairs of another state. In a dispatch to the British observer Lord Stewart ahead of the congress, Castlereagh again set out his concerns regarding a mutual commitment to intervention, reemphasising his twin beliefs in the balance of power and that states should be in control of their own actions and commitments. Any “universal pledge” would make Britain “responsible” for future international actions by the other powers, but Britain “could not and ought not to have that species of detailed control” over other states’ decision-making “which would justify such a responsibility”. Castlereagh asserted that if Austria wished to take any measure in Naples, “she must adopt it upon her own responsibility, and in her own name, and not in that of the five Powers”.²⁸⁵ The Allies should independently decide whether to agree with and approve Austria’s action on the basis of their satisfaction “that she engages in this undertaking with no views of aggrandizement; that she aims at no supremacy in Italy incompatible with existing treaties; in short, that she has no interested views; that her plans are limited to objects of self-defence”.²⁸⁶ The British “desire” was “to leave Austria unembarrassed in her course” while claiming for themselves “the same freedom of action”. Such a situation, wrote Castlereagh, “enables us, in our

²⁸³ Castlereagh quoted in *ibid.*, 254.

²⁸⁴ Castlereagh quoted in *ibid.*

²⁸⁵ Viscount Castlereagh, ‘Dispatch to Stewart’, in *Correspondence, Despatches, and Other Papers of Viscount Castlereagh, Second Marquess of Londonderry*, vol. XII (London: Murray, 1853), 142.

²⁸⁶ *Ibid.*

Parliament, to consider, and consequently to respect her measures as the acts of an independent State—a doctrine which we could not maintain, if we had rendered ourselves, by a previous concert, parties to those acts”. Austria had to pursue “what she feels to be her own necessary policy” without:

[Involving] other Powers in a...completely common interest and common responsibility. The consequence of so doing would be to fetter her own freedom of action. She must preserve to herself the power of pursuing with rapidity and effect her immediate views of security; and the other Allied States must reserve to themselves the faculty of interposing, if they see cause for doing so.²⁸⁷

Although Castlereagh warned that universal pledges made by the great powers would be “seen through and despised”²⁸⁸ the autocratic states nonetheless articulated at the congress a broad interventionary position, which denied the legitimacy of any state whose domestic institutions had been altered by revolt. The 'Troppau Protocol' asserted that:

States belonging to the European alliance, which have undergone in their internal structure an alteration brought about by revolt, whose consequences may be dangerous to other states, cease automatically to be members of the alliance. [If such states] cause neighbouring states to feel an immediate danger, and if action by the Great Powers can be effective and beneficial, the Great Powers will take steps to bring the disturbed area back into the European system, first of all by friendly representation, and secondly by force if force becomes necessary to this end.²⁸⁹

This protocol, adopted by Austria, Russia and Prussia, established an interventionary system whereby the internal constitution of states becomes subject to the judgement of the Great Powers. In this system, constitutional change by popular revolt meant automatic ejection from the European order and the loss of the right to independence and non-intervention. The supposed source of the legitimacy of such a judgement was the shared interests of Europe as a whole, and these shared European interests and values—the definition of which was a privilege reserved for great powers—determined whether or not a state was deemed legitimate. At Troppau, Metternich articulated the powers' understanding of a legitimate state as being both monarchical and stable—that is to say, free from the risk of revolution.²⁹⁰ It was not only the right of the great powers but their *duty* to guarantee that states met those conditions for the good of Europe. The Protocol thus not only bound

²⁸⁷ Ibid.

²⁸⁸ Ibid., 141.

²⁸⁹ Quoted in Cynthia Weber, *Simulating Sovereignty: Intervention, the State, and Symbolic Exchange* (Cambridge University Press, 1995), 53.

²⁹⁰ Ibid., 51–2.

all states to a particular form of constitution, but also bound the powers to *act* to contain threats to general, common values.

The idea of state freedom dominant at Troppau, then, was not one of independent states enjoying the freedom to determine their own domestic political structures. Nor was it the freedom of states to act according to their independently determined interests and sentiments. Rather, legitimate statehood was directly identifiable with its dynastically legitimised sovereign. States, so conceived, could only be understood as being in control or self-mastering if they were not subject to the threat of popular agitation and revolt. Although the self-mastery of states was apparent as a normative goal for the plenipotentiaries at Troppau, with the state identified with the legitimate sovereign, and the primary normative concern being those sovereigns' control over their own population, the relations of control between states that were claimed as legitimate at Troppau were starkly different from those set out by Britain. Like Britain, the absolutist powers invoked the battle against *tyranny* as their unifying and animating purpose, but they had very different understandings of how the threat of tyranny was constituted and how the remedy of intervention should be employed. Britain associated tyranny with the desire of a state for territorial aggrandisement, an aim that was concretely linked to Napoleonic France. The Holy Alliance of Austria, Russia and Prussia, on the other hand—while admitting the link between Napoleon and tyranny—principally associated tyranny with revolution; Napoleon was the 'son' of the French revolution, and so were his hegemonic aims. The continental allies summarised the discussions at Troppau in a circular of December 18, 1820 to mark its adjournment, in which they asserted an “obligation” on the part of the great powers of “watching over the Tranquility of States”.²⁹¹ Their joint action had “delivered Europe from the yoke” which “Revolution” had placed on Europe through Napoleon. It was natural, therefore, that just as the great powers had “delivered the Continent of Europe from the military tyranny of the Representative of the Revolution”, the alliance should also “put a curb on a force no less tyrannical and no more detestable, that of Revolution and Crime”.²⁹²

According to the Holy Alliance, this tyrannical threat of revolution activated a right to intervene, threatening as it did the common values of the European system:

The Powers exercise their indisputable right, in employing security measures in the states in which the revolutionary overthrow of a government could only be considered a dangerous example, one which could result in a hostile attitude toward all legitimate Constitutions and governments. The exercise of

²⁹¹ Albrecht-Carrié, *The Concert of Europe*., 52.

²⁹² *Ibid.*, 53.

the right became even more urgent, when those who had placed themselves in this position sought to spread their misfortune to neighbouring states, and to propagate all around them rebellion and confusion.²⁹³

States in this vision of European politics do enjoy negative rights of non-intervention, but popular revolt compromises the solidarist pact that guarantees such rights (rights which are enjoyed only by those within this exclusive community of states):

“In this attitude and behaviour we can see the breakdown of the pact which guarantees to all European governments, not just the inviolability of their Territory, but also the enjoyment of peaceful relations which exclude encroachments on one another's rights.”²⁹⁴

It is this understanding of Europe as a system of states based on common values (embodied in a particular form of domestic organisation) that enabled the allies to claim that the Troppau Protocol, despite its interventionary character, did not compromise the independence of states:

“Besides, no other proofs are necessary, than that neither the spirit of conquest, nor the pretext of infringing on the Independence of other governments in their Internal Administration, nor the project of preventing wise alterations, freely undertaken, and consistent with the true interests of the peoples, had had any part in the Resolutions of the Powers. They only wish to maintain Peace, and to deliver Europe from the curse of revolution, and to remove or abridge, as much as in them lies, the evils which result from the violation of all principles of order and morality.”²⁹⁵

Although independence may ordinarily mean “freedom from outside control or support”,²⁹⁶ the relevant ‘outside’ in this case is outside the traditional dynastic order rather than outside the borders of the state. Hence, in the position of the Holy Alliance, a state can be self-mastering in spite of, and indeed because of, outside intervention.

The British response to the Troppau Protocol was to remain neutral with respect to which human object—the ‘People’ or the monarch—could legitimately represent ‘the State’. In a circular dated 19 January, 1821, Castlereagh reiterated the exceptional and limited character of the right to intervene, emphasising the incompatibility of a general “rule” of intervention with “general principles of the

²⁹³ Quoted in Weber, *Simulating Sovereignty*, 50.

²⁹⁴ Quoted in *ibid.*

²⁹⁵ Albrecht-Carrié, *The Concert of Europe.*, 55.

²⁹⁶ Merriam-Webster Dictionary, “Independence”, accessed 17 December 2014, <http://www.merriam-webster.com/dictionary/independence>.

greatest value and importance”.²⁹⁷ While careful not to accuse the other powers of undertaking interference for their own aggrandisement, Castlereagh asserts that “in the hands of less beneficent Monarchs” the Troppau proposals would “inevitably sanction...a much more frequent and extensive interference in the internal transactions of states”.²⁹⁸ We can infer here a link between a broad right of intervention and the danger of tyranny and supremacy; ‘frequent and extensive interference’ is incompatible with the independence of states and, in the British mind, the only alternative to independent states is hierarchy. A hierarchical Europe—unachievable and undesirable—could take one of only two forms: federative or hegemonic. As Castlereagh put it in his circular, the doctrine of intervention implied at Troppau was reconcilable with neither “the general interest, [n]or with the efficient authority and dignity, of independent Sovereigns”.²⁹⁹ The British Government, he wrote:

do not regard the Alliance as entitled under existing Treaties, to assume, in their character as Allies, any such general powers, nor do they conceive that such extraordinary powers could be assumed, in virtue of any fresh Diplomatic Transaction amongst the Allied Courts, without their either attributing to themselves a supremacy incompatible with the rights of other States, or, if to be acquired through the special accession of such States, without introducing a federative system in Europe, not only unwieldy and ineffectual to its object, but leading to many most serious inconveniences.

Just as the Holy Alliance claimed the Troppau Protocol to be anti-tyrannical, the British position has not changed from their position at the outset of the Concert system; that the tyranny to be avoided—first associated with Napoleon, now being linked with the programme of the Holy Alliance—is that of dictating the internal affairs of other states, be it through hegemonic military means of a single state, the multilateral action of a concert of states, or the mutual obligation that follows from collective organisation of security. Absent direct threat, the self-determination of domestic political order is a right of states—understood as a territorial entity rather than a dynastic monarch—and is a right which cannot be reconciled with the influence of a higher authority.

Following the adjournment at Troppau, the Congress was resumed in Laibach³⁰⁰ and sat between January 21 and May 12, 1821.³⁰¹ Again Britain sent only an observer rather than a plenipotentiary, and the divisions between her position and that of the Holy Alliance were merely reiterated rather than reconciled. The powers at Laibach continued to see revolution as a general threat to both

²⁹⁷ Albrecht-Carrié, *The Concert of Europe.*, 51.

²⁹⁸ *Ibid.*, 49.

²⁹⁹ *Ibid.*, 51.

³⁰⁰ Now Ljubljana

³⁰¹ Albrecht-Carrié, *The Concert of Europe.*, 48.

European peace and the “constitutive principles of Society”,³⁰² leading to a position that European order, and the independence of states, could only be maintained by the Great Powers guaranteeing traditional domestic political orders. The circular dispatch from Metternich that concluded the Laibach Congress declared it an “eternal truth” that reform of political orders must emanate “from the free decision, from the enlightened views of those on whom God had conferred the responsibility...lest upheaval usurp a degree of power which would become a general scourge”.³⁰³ The declaration issued at the close of the congress re-asserted that the “object” of the allied powers’ policy would “always be the preservation of the Independence and of the Rights of each State”, although with the crucial proviso, “such as they are recognised and defined in existing Treaties”.³⁰⁴ Nonetheless, intervention in Naples had the “sole object of protecting the free exercise of legitimate authority”.³⁰⁵ Keen to distinguish their motives from those of territorial aggrandisement, the powers again claimed their action in Naples in the name of independence:

Destined simply to fight against and repel rebellion, the Allied Forces, far from upholding any exclusive interest, came to the assistance of subdued Peoples, and they considered it as coming in support of their liberty, and not as an attack against their independence. From that moment war ceased; from the moment the States which the revolt had overtaken, became friendly States towards the Powers who had never looked for anything but their tranquillity and their prosperity.³⁰⁶

Castlereagh, meanwhile, recognised that the continued proclamation of interventionary doctrines—doctrines incompatible with principles which in the British system were “immutable”—would “ere long work a separation” between the parties that all had wished to avoid.³⁰⁷ So it proved to be, with the disagreements over intervention in Spain and Naples providing an outline of the “constellation which posterity has identified with the whole post-Vienna period”; Austria, Russia and Prussia acting together and superintending over European political and social order, Britain acting as an independent and oppositional pole, and France vacillating between the two.³⁰⁸

A significant element of the history of the early period of the Concert of Europe, then, is characterised by debate about intervention. Neither Britain nor the Holy Alliance held anything like a rigidly non-interventionary position, but their understandings of the purposes and contours of use of

³⁰² Weber, *Simulating Sovereignty*, 49.

³⁰³ Quoted in Kissinger, *A World Restored*, 282–3.

³⁰⁴ Albrecht-Carrié, *The Concert of Europe*, 57.

³⁰⁵ Ibid.

³⁰⁶ Ibid.

³⁰⁷ Quoted in Kissinger, *A World Restored*, 284.

³⁰⁸ Ibid.

intervention as a tool of foreign policy were markedly different. It was disagreement along these lines that wrought a schism between Britain and the continental powers.

As I have argued above, the different positions of the two parties on intervention can be linked to the different conceptions of state freedom they held. Although all of the great powers exhibited the inheritance of 18th century associations between basic political independence and a rejection of the supremacy of foreign powers, Britain and the Holy Alliance had widely diverging understandings of the meaning of that independence. Britain displayed a Self-Help idea of state freedom. In this idea, the state is understood as an entity possessing its own individual form, characteristics and sentiments. For such an entity to be considered as self-mastering and self-controlling, it is necessary that its unique characteristics are realised through its self-determination of interests and actions without the imposition of foreign influence and control. That freedom of states was not unconditionally sacrosanct; a fundamental state right was to judge for itself when it was necessary to intervene in defence of its own independence. However, a necessary condition for the realisation of the self-mastery of states was the absence of inter-state control, whether that control was hierarchically or laterally imposed.

The Holy Alliance, in contrast, identified the state with the dynastically legitimised monarch. The 'self' in the self-mastery of states was, therefore, the sovereign him- or herself. The self-mastery of the state consisted, therefore, in the control the sovereign had over her or his population. The necessary condition for the realisation of that self-mastery was the stability of the order that constituted dynastic sovereign authority. This Dynastic Idea of state freedom supported a legitimating claim for a reconfiguration of the relations of control between states. States as territorial entities ought not to be self-controlling with respect to their own constitutions; this control should rather be in the hands of the international dynastic order, which was the true location of political authority. Dynastic powers had both the right and the duty to intervene wherever that order was threatened.

State freedom in the Americas: paternalism and absolute rights

Non-intervention is frequently associated with the Peace of Westphalia, and the claim is made that the basic rule of abstaining from intervention in the affairs of European states grew out of European ideas and practices of state sovereignty. To a certain extent that is true; theories of sovereignty did

spawn in Europe ideas about the illegitimacy of intervention. However, although present in 19th century European legal and political theory non-intervention was subject to numerous exceptions. As we have seen, in the practice of European relations, intervention was a well-established rule of conduct, even if there was significant contestation regarding the legitimate contours of its use. In the Americas, however, the young states that had grown out of former European colonies were keen to preserve their new found freedom from foreign subjection. The fear of European intervention in the Americas, followed by the practice of US intervention in Latin American affairs led to the advocacy and eventual institutionalisation of an absolute rule of non-intervention in western-hemispheric law.

In this section I will describe the development of the non-intervention norm in the Americas from the pronouncement of the Monroe Doctrine in 1823 until the zenith of hemispheric non-intervention in the 1930s, piecing together the ideas about state freedom that American debates about non-intervention reveal. Although the states of the western hemisphere shared a basic normative belief that states were sovereign, independent entities that should be masters of their own destinies, over the course of the 19th and early 20th centuries a schism opened up between the Latin American states and their powerful neighbour to the north as to the meaning of that mastery and the necessary conditions for its realisation. The nature of those diverging ideas of state freedom were precipitated and illuminated by repeated attempts on the part of Latin American states to reconfigure relations of control between states. These claims were put forward through progressive arguments about the illegitimacy of intervention between states, first arguing against intervention for pecuniary measures, then for the protection of citizens abroad and culminating in the advocacy of an absolute prohibition of intervention. At the same time, however, the US was developing a social role as a 'hemispheric policeman' and accompanying doctrines of control over the internal characteristics of other American states. First, a practice of 'preventive intervention' developed, with its stated aim being to preserve Latin American independence from European control. This developed into a doctrine that linked states' capacity for, and right to, non-intervention to the display of certain internal characteristics, principal among which were civilisation, order and democracy.

The diverging beliefs about the rightfulness of intervention were extensively debated at the sixth and seventh International Conferences of American States, held in Havana and Montevideo in 1928 and 1933 respectively and it was during the conference in Havana that two different ideas of state freedom were articulated most clearly. The US and its key allies demonstrated an understanding of state freedom that linked the self-mastery of states to responsibility and the fulfilment of duties, underlying which were the familiar principles of civilisation, order and democracy. In order for this

self-mastery to be realised, self-control in the sense of self-limitation needed to be demonstrated. In the absence of such self-control, the intervention and guidance of other states may be necessary, not to deny the freedom of states but to develop it. It is for this reason that I term this idea of freedom the *Paternalistic Idea*. Against this idea, the majority of Latin American states exhibited an idea of state freedom in which self-mastery consisted of the complete rejection of outside influence in the affairs of independent states. The necessary condition for this idea of self-mastery to be realised was the codification of absolute state rights in international law. This chapter focuses on the unconditional right of non-intervention and in Chapter Four I go on to examine how this idea of state freedom is related to ideas about the equality of states. Because of the absolute rejection of intervention at the heart of this idea of state freedom, I term it the *Categorical Idea* of state freedom.

Responsibility and control: US hemispheric policing

Although the high point of the codification of non-intervention into the law of the Western hemisphere came in the 20th century, non-intervention as an aspiration and a policy doctrine in the Americas began with the famous Monroe doctrine, first articulated in 1823. Proclaimed by US President James Monroe, the doctrine was both a rejection of European interference with the nascent independent states of Latin America and a renouncement of US interference with the remaining European colonies in the Americas. The doctrine is highly significant in the history of non-intervention in the Americas as it both informed US policy well into the next century, and was regularly invoked by the Latin American states in their struggle for the codification of an absolute principle of non-intervention. The doctrine introduces the idea that by virtue of having thrown off the yolk of European colonialism, the American republics constituted “free and independent” states and were consequently unsuitable for future European colonisation. Their freedom, however, rested on more than merely the absence of formal colonial rule, but also the absence of any lesser interference on the part of European powers. As Monroe put it in his December 1823 address to Congress:

We owe it...to candour and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintain it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition

for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States.³⁰⁹

The Monroe Doctrine, therefore, implicitly claims a right on behalf of the Latin American republics to existence as independent states free from the colonial domination of the European powers. It also claims on their behalf the right of Latin American states to be free from European interference short of imperial control, bundling together formal independence and the freedom of a state to control its own destiny free from European oppression. This relationship between independence and a state's control over its own destiny would be frequently repeated by the American states over the coming century. As well as introducing the idea that as independent entities, American states had the right to control their own destiny (and the correlative duty of European powers not to interfere with them), the Monroe Doctrine also involved the US assuming the responsibility to uphold the rights of Latin American states against European encroachment. In appointing itself guarantor of Latin American rights, the US to an extent adopted the role of policeman in the Americas (although in reality it lacked the power to effectively play the role), a role which, as we will see, was actively embraced by some of Monroe's successors as US President.

Following the Monroe doctrine, in 1868, the “second American doctrine of non-intervention”³¹⁰ was articulated by the noted Argentinian jurist Carlos Calvo and constitutes a notable attempt to reconfigure legitimate relations of control between Latin American states and the materially powerful European states from which they had gained their formal independence. While the Monroe Doctrine was primarily aimed against territorial occupation of American soil by the European powers, the Calvo Doctrine expanded the call for nonintervention into the financial sphere. Calvo rejected the practice of European states of exerting military or diplomatic interventions in American states in order to “enforce private claims of a pecuniary nature”. Calvo rejected this practice on the grounds of inequality—both the inequality of rights between national and foreign individuals, and the inequality between states it implied given that the practice was conducted by European nations only in their relations with American states and not with each other.³¹¹ Calvo's doctrine was taken up by the Latin American states at the First International Conference of American States. Held in Washington in 1890, the Washington conference initiated a series of hemispheric conferences that promoted the

³⁰⁹ Quoted in Ann Van Wynan Thomas and AJ Thomas, *Non Intervention: The Law and Its Import in the Americas* (Dallas: Southern Methodist University Press, 1956), 11.

³¹⁰ *Ibid.*, 57.

³¹¹ Amos S. Hershey, ‘The Calvo and Drago Doctrines’, *The American Journal of International Law* 1, no. 1 (1907): 26–45.

idea of special relationships between the American republics and aimed to further cooperation between them. The principal aims of the conference as conceived of by the US were to discuss plans for the adoption of arbitration for the settlement of intra-American disputes, and to encourage commercial relations between states.³¹² The legal and political thinking throughout Latin America at the time, however, was characterised by growing prominence of the ideas of their equality and independence as states. Seen as incompatible with these ideas was intervention violating the sovereignty of less materially powerful states.³¹³ With certain Latin American states viewing the Washington conference as an ideal opportunity to push for equal respect of sovereignty, a resolution was proposed that echoed the ideas of Carlos Calvo: “a nation has not, nor recognizes, in favor of foreigners, any other obligation or responsibilities than those which in favor of the natives are established, in like cases, by the constitution and the laws”.³¹⁴ This proposal was voted for by all but one of the states present, the dissenter being William H Trescot, the US. Delegate. Trescot stated that the US could not “concur in any opinions which diminish the right or reduce the power of a nation by diplomatic reclamation, which is the manifestation of moral strength and vitality, to protect the rights and interests of its citizens”.³¹⁵

This cleavage between the US and the other American states on the subject of intervention to protect citizens’ rights abroad evident at the First International Conference of American States was one that would persist over the coming decades.³¹⁶ Indeed, while the Monroe and Calvo Doctrines were both aimed at the intervention of *European* powers in the Americas, by the turn of the century, and particularly with the beginning of the Presidency of Theodore Roosevelt, the principal interventionary threat to the Latin American states was beginning to be seen as their powerful neighbour to the north. This fear of US intervention was not without basis as between the Spanish-American war of 1898 and the Good Neighbour Policy of Franklin D Roosevelt of the 1930s US

³¹² J. Lloyd Meham, *The United States and Inter-American Security, 1889-1960* (Austin: University of Texas Press, 1962), 54.

³¹³ Ibid.; Robert A. Klein, *Sovereign Equality among States: The History of an Idea* (University of Toronto Press, 1974), chap. 3.

³¹⁴ A similar resolution aimed at denying aliens rights beyond those of citizens, or diplomatic protection in the event of civil war was proposed at the Second International Conference of American States, held in Mexico City in 1901 (see Meham, *The United States and Inter-American Security, 1889-1960*, 62.)

³¹⁵ Ibid., 54; Samuel Flagg Bemis, *The Latin American Policy of the United States*, (New York: Harcourt, Brace and Co., 1943), 233. The Latin American states did, however, at the second Hague conference of 1907, manage to get an international convention agreed to institutionalise the more limited 'Drago Doctrine' that the collection of public debt does not justify forcible intervention. (Ibid., 147; Meham, *The United States and Inter-American Security, 1889-1960*, 65.)

³¹⁶ At the Second International Conference held in Mexico City in 1901-2, the Latin American states a similar resolution on the rights of aliens was tabled but again the US declined to sign (Mecham, *The United States and Inter-American Security, 1889-1960*, 62.)

intervention was “almost habitual”.³¹⁷

According to Charles G Fenwick, the transition of the US position from protector against inter-continental intervention (as under the Monroe Doctrine), to that of principal intervening power was a simple one: “it was merely a case of assuming the duties that logically followed from resistance to European intervention”.³¹⁸ Fenwick is not the only scholar to link the interventions of the period to the Monroe Doctrine, with numerous historians characterising them as preventive interventions aimed at warding off European would-be interveners in the event of civil strife in Latin America.³¹⁹ Such an interpretation is not without its merit, as this protective purpose of intervention was a stated purpose of US policy even before the Roosevelt Corollary made it doctrine. The infamous Platt Amendment provided that “the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence”.³²⁰ However, this was not the sole interventionary provision of the Platt Amendment and nor was it the only justification for intervention claimed by the US around the turn of the 20th century. The amendment also granted the right to intervention for the “maintenance of life, property and individual liberty”.³²¹ This clause suggests that the Cuban right to control its own destiny was subject to the judgement of the United States as to whether or not it was fulfilling its duties as a state. The Platt Amendment, and the reasons given by President William McKinley for the US intervention in Cuba in 1898 that presaged it,³²² did not make any explicit claims as to the type of state a nation was free to develop into—monarchical, republican, democratic, etc.—but they did assert a right of judgement on other states' internal situations, thus showing cracks in the relationship between recognition of sovereign statehood and non-intervention. These fissures between independent statehood and non-intervention continued to develop in US policy, particularly during the presidencies of Theodore Roosevelt and Woodrow Wilson, when non-intervention came to be linked explicitly with normative principles distinct from sovereignty. For the Latin American states, the rule of non-intervention was tightly linked not only with the principle of sovereignty (or independent statehood), but also the equality of states. The development of the doctrines of non-intervention and equality in Latin

³¹⁷ Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 21.

³¹⁸ Charles G. Fenwick, ‘Intervention: Individual and Collective’, *The American Journal of International Law* 39, no. 4 (1945): 651.

³¹⁹ Bemis, *The Latin American Policy of the United States*, 150, 270; R. A. Falk, ‘United States and the Doctrine of Nonintervention in the Internal Affairs of Independent States, The’, *Howard LJ* 5 (1959): 176; Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 55.

³²⁰ See also Roosevelt's justification of the Protocol with Santo Domingo that forcible intervention of creditors would have been likely absent US interference (quoted in Fenwick, ‘Intervention’, 654).

³²¹ Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 23.

³²² In addition to the potential threat to peace that Cuba was alleged to pose, McKinley also claimed justification for intervention on grounds of a humanitarian duty to prevent bloodshed caused by instability, to protect US citizens, and to protect their business and commercial interests (*Ibid.*, 21.)

America are closely intertwined,³²³ rooted in the same Categorical Idea of state freedom, and both grew in contestation with alternative ideas and policies emanating from the US.

The presidency of Theodore Roosevelt (1901-1909) was notable for its strongly interventionary character. According to Richard A Falk, by the turn of the century, the 'protective intervention' of the US aimed at preserving Latin American independence in the face of European intervention became increasingly a "mere euphemism for a quasi-imperialistic suzerainty that the United States felt itself entitled to exercise over most of Latin America". Among the ideas informing this interventionary behaviour were ideas about civilisation that had the same roots as beliefs of racial superiority as those claimed by the European empires to justify colonialism.³²⁴ Roosevelt described Colombia as a "corrupt, pithecoïd community", while he claimed that asking Mexico and Venezuela to aid the US in guaranteeing the Monroe Doctrine would be like "asking the Apaches or Utes to guarantee it".³²⁵ Roosevelt held a hierarchical and teleological view of civilisation and, consequently, saw it as the duty of the 'civilised' states to promote the collective civilisation of the world. Not only was the equality of states a false idea, it was also a harmful one: "In international matters, to make believe that nations are equal when they are not equal is as productive of far-reaching harm as to make the same pretence about individuals in a community".³²⁶ It was these ideas, in addition to a spheres of influence logic, that informed Roosevelt's approach to intervention. His interpretation of the Monroe Doctrine was thus not as an expression of a general rejection of intervention, but rather a narrow rejection of European intervention in the Americas which did not prejudice the rights of certain powers to intervene in certain geographic areas. This position was spelled out in what became known as the Roosevelt Corollary to the Monroe Doctrine. In his 1904 annual message to Congress, Roosevelt argued:

If a nation shows that it knows how to act with reasonable efficiency and decency in social and political matters, if it keeps order and pays its obligations, it need fear no interference from the United States. Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe doctrine may force the United

³²³ Klein, *Sovereign Equality among States*, chap. 3. See also Chapter Four of this thesis.

³²⁴ On these imperial ideas, and standards of civilisation generally, see Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge University Press, 2002); Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge, UK ; New York, NY, USA: Cambridge University Press, 2002); Gerrit W. Gong, *The Standard of 'Civilization' in International Society*, vol. 20 (Clarendon Press Oxford, 1984).

³²⁵ Quoted in Klein, *Sovereign Equality among States*, 50.

³²⁶ *Ibid.*, 52.

States, however reluctantly, in flagrant cases of wrongdoing or impotence, to the exercise of an international police power.³²⁷

The Roosevelt Corollary contains three significant ideas with respect to intervention. The first is that it makes the independence of states conditional on international judgement regarding issues within its borders; states are required to be efficient, decent, well-ordered and financially responsible. In effect, this links self-mastery, or self-control, with objective measures of control. In a similar way to the Holy Alliance's association of legitimate statehood with the stability of the dynastic order, this makes possible the reconciliation of intervention with state independence. This idea was, as we shall see, at odds with the direction of legal and political thought throughout the rest of the hemisphere, which was pulling in the direction of equality and non-intervention.

The Roosevelt Corollary was also novel with respect to the normative framework upon which judgement of states was based. Rather than dynastic legitimacy, the ideational basis for judgement was a civilisational standard linked to order, power and modernisation;³²⁸ in essence this was an application of the arguments made by European states to justify imperial control over extra-European territories and populations to relations between states. This standard suggested a hierarchy between states incompatible with the idea of inter-state equality. The hierarchical nature of Roosevelt's understanding of civilisation was reinforced by "the unabashed proclamation, which invariably accompanied the applications of this new version of the Monroe Doctrine, of the superiority of the United States' political and social institutions and the express denial of confidence in both the standards and the machinery of justice of the Latin American states".³²⁹

The third significant element of the Roosevelt Corollary was that 'civilised nations' had a *responsibility* for the development of civilisation internationally. This meant that, within distinct geographic spheres, these states had not only the right but the duty to intervene in other states when the progress of collective civilisation demanded it. This was a moral rather than legal imperative and Roosevelt was not afraid to flout international law to follow it, as he did when he intervened in Panama.³³⁰ This action not only violated international law on non-intervention but also an 1846 treaty between Colombia and the US, which recognised the former's sovereignty over the

³²⁷ Quoted in J. A. Cabranes, 'Human Rights and Non-Intervention in the Inter-American System', *Mich. L. Rev.* 65 (1966): n. 4; See also Bemis, *The Latin American Policy of the United States*, 150.

³²⁸ Frank Ninkovich, 'Theodore Roosevelt: Civilization as Ideology', *Diplomatic History* 10, no. 3 (1986): 226.

³²⁹ Cabranes, 'Human Rights and Non-Intervention in the Inter-American System', 1150.

³³⁰ The US military prevented Colombia from quashing a rebellion in the territory and, defying international convention, immediately recognised Panama as an independent state.

Isthmus. Roosevelt justified the intervention both in terms of national interest and collective civilisation.³³¹

Roosevelt's 'civilisational' doctrine of intervention was not anomalous with respect to US foreign policy in the early part of the 20th century. Although the exact content of the civilisational norms informing intervention were in part specific to Roosevelt, the notion of a moral hierarchy between states that justified intervention outlasted his tenure in the White House. Woodrow Wilson's time in office (1913-1921) was also characterised by the frequency with which the US intervened in other American states.³³² In his public pronouncements, however, Wilson championed both non-intervention and the equality of peoples. He also denied that his administration intervened in the domestic affairs of other states.³³³ His vision for international relations included that "the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful".³³⁴ Although this statement appears to leave little room for either hierarchy or intervention in international affairs, Wilson's position was clouded by the use of the term 'people', rather than state. While Wilson links his position to that of Monroe (and the non-intervention it implied), the change of referent from state to people has significant and radical implications for international relations. In Wilson's vision, a fully realised state was one that was an institutional expression of the 'consent of the governed'.³³⁵ Inverting the absolutist position of the Holy Alliance, the true and legitimate expression of statehood was democracy, grafted to familiar ideas about civilisation. As Wilson stated in his declaration on Latin American policy:

Cooperation is possible only when supported at every turn by the orderly process of just government based upon law, not upon arbitrary or irregular force. We hold, as I am sure all thoughtful leaders of republican government everywhere hold, that just government rests always upon the consent of the governed, and that there can be no freedom without order based upon law and upon the public

³³¹ Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 28–9; Bemis, *The Latin American Policy of the United States*, 150.

³³² Historian Lester D Langley wrote of Wilson that he "condemned the interventionism of his predecessor and chastised the economic imperialists yet became the greatest interventionist of his age". (Lester D. Langley, *America and the Americas: The United States in the Western Hemisphere* (Athens: University of Georgia Press, 1989), 110).

³³³ Bemis, *The Latin American Policy of the United States*, 178; Weber, *Simulating Sovereignty*, 63.

³³⁴ Woodrow Wilson, 'Address of the President of the United States to the Senate - World War I Document Archive', accessed 29 May 2013, http://www.lib.byu.edu/index.php/Address_of_the_President_of_the_United_States_to_the_Senate.

³³⁵ Although, as we will see in Chapter Five, the realities of post-World War one reconstruction led to significant compromises of this vision.

conscience and approval.³³⁶

Wilson's call for interstate judgement on the justice of domestic political arrangements of other states was significantly different from 19th century European positions—Castlereagh would have been deeply troubled by the notion that a state can judge the legality and justice of another, and the Holy Alliance would have been disturbed by the call for democracy—but this moral position was not in itself interventionary. What is significant is how Wilson linked this normative tenet of domestic order to international order. When faced with the question of whether or not to recognise the government of General Huerta in Mexico (which would have been consistent with the practice of the time and had been done by the European powers, Japan and China³³⁷), which had been installed as a result of a military coup, Wilson stated:

The present situation in Mexico is incompatible with fulfilment of international obligations on the part of Mexico, with the civilized development of Mexico herself, and with the maintenance of tolerable political and economic conditions in Central America.³³⁸

Wilson linked the presence of a military dictatorship in Mexico with international disorder and, recalling Roosevelt, the impeding of civilisation. Wilson made, therefore, a state's relationship with its own population a matter of international concern. This was not mere rhetoric for Wilson. The US allowed arms to pass across the Mexican border to supply the constitutionalist rebels in the north, fuelling a civil war in the hope of toppling Huerta and then forcibly occupied the port of Vera Cruz. In the mediation that followed, the US demanded the resignation of Huerta and that he be replaced by a constitutionalist government pledged to agrarian reforms to ensure fairer distribution of land to the Mexican people.³³⁹ Despite this, Wilson maintained that he never had and never would intervene in the affairs of the Mexican people.³⁴⁰ He also claimed: “The country is theirs. The Government is theirs...And so far as my influence goes while I am President nobody shall interfere with them”.³⁴¹ Wilson was able to maintain this position because he held the people, rather than the state, a key holder of rights, even internationally. Hence he claimed:

Mexico has no government. The attempt to maintain one at the City of Mexico has broken down, and a mere military despotism has been set up which has hardly more than the semblance of national

³³⁶ Bemis, *The Latin American Policy of the United States*, 175.

³³⁷ *Ibid.*, 174.

³³⁸ Quoted in Weber, *Simulating Sovereignty*, 63.

³³⁹ Bemis, *The Latin American Policy of the United States*, 17–19.

³⁴⁰ Weber, *Simulating Sovereignty*, 63.

³⁴¹ Klein, *Sovereign Equality among States*, 66.

authority...[A] condition of affairs now exists in Mexico which has made it doubtful whether even the most elementary and fundamental rights either of her own people or of the citizens of other countries resident within her territory can long be successfully safeguarded, and which threatens, if long continued, to imperil the interests of peace, order, and tolerable life in the lands immediately to the south of us..³⁴²

Mexico had “no government” for Wilson not just because of civil disorder in the country, but also because it was not representative of the people. The disorder in Mexico indicated an absence of control on the part of the Mexican state, but the military despotism also meant that the true agency of the state—the people—had been usurped. Without the ‘consent of the governed’, the government was illegitimate, unworthy of recognition and a legitimate target for US action. This action was not, in the view of the Wilson administration, intervention because “to intervene in the affairs of a neighboring independent state means to interfere with its domestic affairs and the exercise of its sovereign rights by its people”;³⁴³ as unrepresentative of the people, Huerta's government held no sovereign rights and therefore even forcible action by the US did not, according to this view, constitute intervention.

International Conferences and categorical non-intervention

Both the Roosevelt and Wilson administrations, then, were willing to sanction what would commonly be called interventions on grounds not justified by contemporary international law. It is commonly claimed by historians that, in response to the interventionary behaviour of the US, the other American states developed an “obsession to proclaim an absolute doctrine of non-intervention”.³⁴⁴ Although this is true to an extent, the Latin American drive for non-intervention—and its institutionalisation in international law—was in evidence long before the US became the primary interventionary threat. In 1826 at the Congress of Panama (attended by Colombia, Mexico, Peru and Central American states) fear over Spanish desires to reacquire the independent states of Latin America led the attendees to echo the recently articulated Monroe Doctrine. The object of the treaty signed at the congress was stated to be to “maintain in common, defensively and offensively, should occasion arise, the sovereignty and independence of all and each of the confederated powers of America against foreign subjection”.³⁴⁵ So, in the Western Hemisphere, at the beginnings of Latin

³⁴² Weber, *Simulating Sovereignty*, 64.

³⁴³ Lansing, quoted in *ibid.*, 71.

³⁴⁴ Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 55; Cabranes, ‘Human Rights and Non-Intervention in the Inter-American System’, 1151.

³⁴⁵ Thomas and Thomas, *Non Intervention: The Law and Its Import in the Americas*, 55–56.

American solidarity, we see a similar reaction to the Holy Alliance's interventionary stance as that of Britain's response to French hegemonic aspirations; the association and cooperation of nations with the purpose of resisting foreign domination and promoting the independence of states. This normative preference for independence was reinforced in 1848 when several Latin American countries explicitly institutionalised non-intervention as an inter-american rule of conduct. The delegates at the American Congress of 1848³⁴⁶ agreed it to be a "*casus foederis*" when "any foreign government intervenes or tries to intervene by force, to alter the institutions of one or more of the Confederated Republics".³⁴⁷ In the Tratado de Paz, Amistad y Comercio of 1887, the Central American states pledged "that each should abstain absolutely from all interference, direct or indirect, in the internal affairs of the other Republics" and to "obligate themselves in the most solemn manner to respect the principle of non-intervention".³⁴⁸

These, and other, examples show a clear trend in Latin America from the early 19th century to legally codify the prohibition of intervention, both intra- and inter-continental. It is true, however, that when the interventionary threat from Europe faded,³⁴⁹ and that of the US rose, the attempt to codify absolute non-intervention into an 'American international law', and for it to be ratified by the US, became the "supreme diplomatic objective" of the Latin American republics.³⁵⁰ The form which this diplomatic effort took was a push for a codification of 'American international law', the institutional mechanism that would frame Latin American attempts to reconfigure legitimate relations of control between states. The forums in which the Latin American states principally made this push were the International Conferences of American States. These conferences were initiated by the United States with the idea being to promote cooperation and agreement with respect to common interests, while avoiding political questions and controversial issues.³⁵¹ The Latin American states, however, grasped the opportunity to promote the ideas of equality and non-intervention between states. Since the inaugural meeting in Washington in 1890, the American states had met in 1902, 1906, 1910 and 1923. Some effort had been made in these conferences to develop an American rule of non-intervention, and to develop and codify a hemispheric international law in general. Proposals to create a Commission of Jurists to codify public international law in the Americas were made at both the Second (1901-2) and Third International Conferences of American States. Due to slowness of ratification, the opposition of the US, and the disruption of World War I, however, despite meeting in

³⁴⁶ Bolivia, Chile, Ecuador, Nueva Granada and Peru.

³⁴⁷ J. Puente, 'Doctrines of Recognition and Intervention in Latin America', *Tul. L. Rev.* 28 (1953): 327.

³⁴⁸ *Ibid.*, 327-8.

³⁴⁹ States agreed at the Second Hague Peace Conference in 1907 to make the Drago Doctrine a rule of international law, reducing the threat of intervention for pecuniary reasons.

³⁵⁰ Bemis, *The Latin American Policy of the United States*, 327.

³⁵¹ Mecham, *The United States and Inter-American Security, 1889-1960*, 49.

Rio in 1912 the Commission was largely moribund until the Fifth International Conference held in Santiago in 1923.³⁵² Here, at the behest of the US Secretary of State Charles Evans Hughes (sympathetic to the development of international law, although sceptical towards an American international law), the Commission of Jurists was put on the Conference agenda. At Santiago, the Chilean delegate and noted jurist Alejandro Alvarez presented a report to the Juridical Committee of the conference on the meaning and expression of American international law. In it, he drew a distinction between the international law of Europe and that of America which also implied fundamentally different modes of conduct for continental relations and suggested a future of inter-American politics that rejected the balance of power order that had dominated 19th century Europe. He argued:

The States of America, even before reaching a mutual agreement, have proclaimed certain regulations or principles different and even contradictory to those ruling in European countries, and which these latter are compelled to respect in our Continent, for instance, non-intervention and the non-occupation of territories of the States of America by ultra-continental countries.

There are institutions, practices and law applied in Europe which are not enforced on the American Continent, because the States that form it are not in favor of them. It is said, for instance, that political equilibrium, and armed peace are contrary to the principles of American Public Law.³⁵³

Alvarez's ideas on the codification of American law were highly influential, and the Santiago Conference not only re-established the Commission of Jurists but also urged the Commission to accept Alvarez's report as the basis for its work.³⁵⁴ The Commission met, for the first time since 1912, in Rio in 1927, having as its purpose "the codification of public and private international law as a means of consolidating and developing the good relations which should exist between [the States of the New World]".³⁵⁵ In addition to the work of Alvarez and several other projects, the Commission also received numerous proposals from delegates of individual states, a significant proportion of which pertained to intervention. Haiti, for example, suggested that "any action carried out by a State, whether by means of diplomatic pressure or by armed force, in order to force its will upon that of the other State, constitutes intervention". Argentina proposed that "a State may not intervene in the internal affairs nor in the external affairs of another State". Paraguay put forward that "intervention

³⁵² Bemis, *The Latin American Policy of the United States*, 237–8.

³⁵³ *Ibid.*, 243.

³⁵⁴ *Ibid.*, 244.

³⁵⁵ International Commission of Jurists, 'Projects to Be Submitted for the Consideration of the Sixth International Conference of American States', *Supplement to the American Journal of International Law* 22 Special Number (1928): 234.

or any act of a state within the territory of another State without a previous declaration of war, with the intent to decide by force, material pressure, or moral coercion, internal or external questions of the other State, will be considered as a violation of international law”.

These proposals, along with the projects submitted by Alvarez and others were considered by the Commission in deliberations on its second project, “States: existence—equality—recognition”. Article 3 of that project stated simply: “No State may intervene in the internal affairs of another”. Although it is somewhat less comprehensive than the Argentinian suggestion, which included the external as well as internal affairs of states to be free from intervention, Article 3 was nonetheless a radical proposal, constituting an absolute prohibition on intervention detailing no exceptions, while the prevailing doctrine of international law permitted numerous exceptions. Taken together, Article 3 and the broader project to institutionalise a hemispheric law that broke from European practices of inter-state coercion represented an important legitimacy claim for a transformation of relations of control between states.

The projects of the International Commission of Jurists were to be debated at the Sixth International Conference in Havana, 1928, presenting for the first time in such a conference the opportunity for controversial political issues to be raised. The work of the Commission thus opened up the possibility that at Havana the major fissures in interventionary doctrine in the Americas could be cast open in a major public forum. When the US State Department reviewed the Commission's proposal, it considered much of its work to be a presentation of what it thought international law *ought* to be, rather than codifying existing law. Principal among the Department's objections was the “unqualified” statement on non-intervention.³⁵⁶ The Havana Conference was taking place in the context of both continuing interventionary behaviour on the part of the US and, significantly, an increasingly vocal opposition to that behaviour within Latin America, and even the US itself.³⁵⁷ Against this backdrop, the US State Department was seriously concerned about the possibility of criticism of the US position and action with respect to intervention and made every diplomatic effort to control the discussions both at the Conference and in the run-up. Secretary of State Frank B Kellogg instructed the US delegates that “every effort should be made to have the topics discussed at the conference confined to those on the pre-arranged agenda, or such additional topics as do not

³⁵⁶ Bemis, *The Latin American Policy of the United States*, 249.

³⁵⁷ David Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, *ISA Research Papers*, no. 24 (1991): 4; Charles Evans Hughes, David Joseph Danelski, and Joseph S. Tulchin, *The Autobiographical Notes of Charles Evans Hughes*. (Cambridge, Mass.: Harvard University Press, 1973), 274–5. In fact, the Conference began just as the US military was escalating its activity in Nicaragua (Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, 1; Hughes, Danelski, and Tulchin, *The Autobiographical Notes of Charles Evans Hughes*, 274.).

involve any discussion or criticism of the foreign policy of this or any other country”,³⁵⁸ and the delegation also understood that it was to “resist the doctrine of absolute non-intervention”.³⁵⁹ A US diplomatic effort to identify and discourage potential dissenting voices had yielded assurance in advance that Peru would support the US position “without fail”, as well as similar pledges from numerous other governments.³⁶⁰ They were also reassured that the Cuban President of the conference would guard against “any injection of undesirable matter into the discussions”.³⁶¹

The Havana Conference has been described as a “diplomatic battleground between the rights and duties of states”.³⁶² Without US influence, the Latin American states would have been willing to adopt the projects of the International Commission, meeting their principal objectives of tying the US to a commitment to the equality of states and absolute non-intervention.³⁶³ Bemis characterises this position as one of “sovereign irresponsibility” whereby the Latin American states aimed to confirm their rights but were “less eager to pledge their 'duties'”,³⁶⁴ an interpretation consistent with how US officials considered the Commission's projects at the time.³⁶⁵ The unqualified non-intervention article in particular provoked resistance for its asymmetry with respect to rights and responsibilities of states³⁶⁶. Even President Calvin Coolidge's opening address to the Conference emphasised that “[i]n the international system which you represent, the rights of each nation carry with them corresponding obligations, defined by laws which we recognize as binding upon all of us”.³⁶⁷ The first major clash on this diplomatic battleground, however, took place not in the opening session, but in the Committee on Public International Law. On 4 February, the committee dealt with the first two projects of the International Commission of Jurists, those on the “Fundamental Bases of International Law” and “States: existence—equality—recognition”. According to Bemis, the Chairman of the US delegation, Charles Evans Hughes—present in the Committee on Public International Law—had, after considering the advice of the State Department solicitors, determined before arriving in

³⁵⁸ Hughes, Danelski, and Tulchin, *The Autobiographical Notes of Charles Evans Hughes.*, 275.

³⁵⁹ Ibid.

³⁶⁰ Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, 7. The other states to give assurances to the US were Guatemala, Haiti, Colombia, Dominican Republic, Nicaragua, Costa Rica, Brazil, El Salvador, Venezuela and Bolivia .

³⁶¹ Ibid., 8.

³⁶² Bemis, *The Latin American Policy of the United States*, 250.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ This is not to say, however, that the US position was not informed by how they wished to conduct their Latin American foreign policy.

³⁶⁶ James Brown Scott, ‘The Sixth International Conference of American States’, *International Conciliation*, June 1928, 293–4.

³⁶⁷ Bemis, *The Latin American Policy of the United States*, 250.

Havana, to oppose these two projects.³⁶⁸ According to another of the US delegates at Havana, James Brown Scott, however, there was little objectionable in the two projects, and that “trifling modifications” would have made them acceptable.³⁶⁹ Little objectionable apart from, that is, the “keystone to the arch of the structure...upon which every eye was fixed”.³⁷⁰ This 'keystone' was the non-intervention article, and it was this article that was to provoke intense disagreement at Havana.

According to Scott, the article as adopted by the Commission of Jurists (“No State may intervene in the internal affairs of another”) was an “abstract statement which needed to be interpreted to be applied”. In this abstract form, the article could mean “everything and nothing” and the US delegates in the Committee asserted reservations on the prohibition of intervention in cases of self-defence and “intervention in the name of humanity”. Such reservations were necessary, Scott subsequently claimed “in a system of law based upon juridical equality”, the reason being that “the right of one State implies the duty of all States to recognize, observe it and, if need be, to cause it to be respected”.³⁷¹ This mode of thinking encapsulates the conceptual ambiguity and, ultimately impasse, that is in evidence in so much discussion on state sovereignty and intervention, both in practice and in scholarship. On the same grounds—the legal equality of states, or, to put it another way, a system of independent states coexisting in the absence of formal hierarchy—one can derive opposed perspectives on intervention. For the advocates of non-intervention, juridical equality is a bulwark against predation by materially powerful states. It institutionalises the right to independence of states, thus denying the right to interfere with that independence. For others, however, the rights provided by juridical equality also bestow on states duties. These duties imply that in certain circumstances intervention may be justified in order to ensure compliance. The US delegates argued that the reservations to the rule of non-intervention put the article in line with international practice. 'International practice' with respect to intervention was, of course, what the Latin American states had been trying to change; their position was that the interventions of the US were arbitrary and incompatible with the independence of states, and that any exceptions to the rule of non-intervention opened the door to their abuse by materially stronger nations. The advocates of the Commission of Jurists' proposal thus resisted the US criticism.

The effort at Havana to codify the rights and duties of states was understood as reinforcing a mode of conducting international relations based on a fundamental and legally-enshrined equality,

³⁶⁸ Ibid., 251.

³⁶⁹ Scott, 'The Sixth International Conference of American States', 289.

³⁷⁰ Ibid.

³⁷¹ Ibid., 294.

sovereignty, independence and liberty of states. The language of the fundamental rights of independence and equality was pervasive in Havana, and was understood as a reconfiguration of the power relations of Europe, where “old instincts of domination neutralised only by the balance of power” reigned.³⁷² In the Americas, international relations were to be based on the legal equality of states, a doctrine which, protected by the cardinal principle of non-intervention, configured relations of control between states according to justice and right rather than material power.

The pre-conference diplomacy of the US had been successful, however, and it was not without allies for its rebuttal of absolute non-intervention. The *rapporteur* of the committee, Peruvian delegate Victor Maúrtua (whose government had pledged to support the US position “without fail”), argued against the International Commission of Jurists. Implicitly criticising the tentatively legislative nature of the Commission projects, he stated that the fundamental principles of international life are a product of the coexistence of states and are therefore declared rather than created. He further claimed that they were in no need of reformulation given that they had already been articulated satisfactorily by the American Institute of International Law (AAIL).³⁷³

The AAIL was a non-governmental organisation designed to bring together thinking on international law from throughout the republics of the Americas. It was founded by JB Scott (the President of the Institute) and Alejandro Alvarez (Secretary General), and had Theodore Roosevelt’s former Secretary of State Elihu Root as its Honorary President. In 1916 it published a “Declaration of the Rights and Duties of Nations” based upon decisions of the US Supreme Court.³⁷⁴ Among other things, this Declaration stated that “[e]very nation has the right to independence in the sense that it has a right to the pursuit of happiness and is free to develop itself without interference or control from other states, provided that in so doing it does not interfere with or violate the rights of other states”. It also declared “[e]very nation entitled to a right by the law of nations is entitled to have that right respected and protected by all other nations, for right and duty are correlative, and the right of one is the duty of all to observe”.³⁷⁵ Although the Declaration of the AAIL contained a clear statement of the freedom of states to control their own destinies without the interference of others (and

³⁷² Peruvian delegate Victor Maúrtua International Conference of American States, ‘Diario de La VI Conferencia Internacional Americana’, *Habana*, no. 34 (18 February 1928): 487. This and all following quotations from the ‘Diario’ are my own translations from the original Spanish text.

³⁷³ Scott, ‘The Sixth International Conference of American States’, 249.

³⁷⁴ James Brown Scott, *The American Institute of International Law: Its Declaration of the Rights and Duties of Nations* (Washington, D. C.: The American Institute of International Law, 1916), sec. Foreword, <http://archive.org/details/cu31924007396611>.

³⁷⁵ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States* (Washington: US Government print off, 1928), 9, <http://catalog.hathitrust.org/Record/000277745>.

elsewhere affirmed the equality of states), it made this right conditional rather than absolute.

On both sides of the debate, the freedom of states was claimed as a foundational principle upon which their approach to the right of non-intervention, and the relations of control between states it would give legal force to, was based. Maúrtua claimed a “spiritual continuity” across the Americas “from the point of view of the supreme necessity to root international life in the respect of the liberty of nations and in its regulation by law”.³⁷⁶ He claimed that he was putting forward a “categorical and decisive article the basic principles on which rest the liberty and autonomy of the American nations”.³⁷⁷ Nonetheless, Maúrtua also stressed the emphasis put on duty in the AILL Declaration, suggesting that this “new conception of international law” by “eliminating the old assertion of exclusive rights of the States to replace it by the assertion of rights and duties” could “mark a new epoch in the legal history of humanity”.³⁷⁸ He laid out a conceptual position on state independence that had responsibility at its core:

Independence is not an absolute right. It is limited by justice and cooperation...Independence presupposes that States should not be subject to the arbitrary and unorganized imposition of a foreign law. Sovereignty is a supreme internal power, and its external aspect is independence. In these two respects States are their own masters. They are the arbiters of their proper destiny. *They are master of their actions, precisely because they are responsible for them.* They may not exercise their power to the injury of a right as legitimate as their own, or to the detriment of the sovereign rights as ample as theirs. They may not exercise their independence so as to ignore the duties of the society in which they live. They may not refuse their assistance to undertakings of an international order. They may not develop themselves as if they were living in a desert.³⁷⁹

For Maúrtua, it was the “limitation” of independence by the “just right of the others” that was the very essence of international order; it is this that “renders possible the existence of nations associated with one another” for “[t]here can be neither society nor cooperation if each one should exercise its right to the limits of its proper power, or of its arbitrary will”.³⁸⁰ Maúrtua's interpretation of the Declaration and his understanding of international order stemmed from an understanding of a state's independence and self-mastery as resting on the fundamental principles of self-control (in the sense of self-restraint) and responsibility.

³⁷⁶ Peruvian delegate Victor Maúrtua, International Conference of American States, ‘Diario de La VI Conferencia Internacional Americana’, 487.

³⁷⁷ Maúrtua in *ibid.*, 539.

³⁷⁸ Scott, ‘The Sixth International Conference of American States’, 295.

³⁷⁹ *Ibid.*, 294 my emphasis.

³⁸⁰ *Ibid.*, 295.

He set up this vision of the international sphere in opposition to the excessive freedom and insufficient duty implied by the absolute right of non-intervention. The necessary conditions to realise the freedom of states was not just an equality of rights, but an equality of duties; not a “wild independence”³⁸¹ but “subjection of all to justice and common well-being...the same limitation on all for the just right of the others”.³⁸² According to Maúrtua, society and cooperation is impossible if each state “takes its faculties to the limit of its own power or its arbitrary will, or if the exercise of rights does not take into account that other equivalent rights must also be exercised”.³⁸³ It is precisely in the notion of self-limitation that the New World held the possibility of transcending the international relations of Europe: “The new aspect of international law consists precisely in eliminating the old exclusive affirmation of the rights of states to be replaced with the affirmation of rights and duties”.³⁸⁴

For the advocates of the proposal of the Commission of Jurists, however, it was precisely the absolute nature of the right to intervention that would prevent the 'arbitrary will' of powerful states from impinging on their independence. To make the freedom of states to develop their own destinies conditional, was to open the door to interference; the schema laid out by Maúrtua was overly ambiguous, playing into the hands of the US in leaving them room to interpret it according to their interests.³⁸⁵ El Salvadorian delegate Jose Gustavo Guerrero claimed: “The rights of States to independence, liberty and sovereignty must be proclaimed in precise and categorical terms, and not encompassed in obscure formulas that give place to misunderstandings that can later disrupt the consciousness of peoples”.³⁸⁶ Jacinto R de Castro of the Dominican Republic similarly argued:

The sovereignty of States consists in absolute right, in complete internal autonomy and in complete external independence. This right is guaranteed in strong nations by their strength, in the weak by the respect of the strong. If this right is not established and practised in an absolute form, international juridical harmony does not exist.³⁸⁷

The El Salvadorian delegate Héctor David Castro, among others, argued for the importance of the

³⁸¹ Maúrtua in International Conference of American States, ‘Diario de La VI Conferencia Internacional Americana’, 538.

³⁸² Maúrtua in *ibid.*, 488.

³⁸³ Maúrtua in *ibid.*

³⁸⁴ Maúrtua in *ibid.*

³⁸⁵ Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, 10.

³⁸⁶ Guerrero in International Conference of American States, ‘Diario de La VI Conferencia Internacional Americana’, 490.

³⁸⁷ de Castro in *ibid.*, 492.

categorical nature of the rejection of non-intervention. If any room for interpretation was left, the interpretation of the strong would prevail.³⁸⁸ Underlying all of these arguments was a fundamental belief in the need of a state to “search for its own wellbeing and evolve freely, without any intervention”³⁸⁹ and states’ “right to complete independence, liberty and sovereignty”.³⁹⁰

The opponents to the AIL doctrine were not concerned without reason. Not only did they have the recent history (and indeed contemporary actions) of the US with respect to intervention to make them fearful, the Declaration of the AIL itself also suggested that independence was contingent on the embodiment of higher values. Reflecting the Wilsonian ideology of the time of its drafting, the preamble of the Declaration states that “nations or governments are regarded as created by the people, deriving their just powers from the consent of the governed”.³⁹¹ Thus, despite the assertion present in both the Declaration itself and the accompanying commentary of the rights to independence and equality,³⁹² the AIL's code implies duties not only to other states, but also to higher order principles than the independence of states. Moreover, despite the preambulatory claim that the Declaration expresses the “universal practice of the American Republics”,³⁹³ the Declaration nonetheless has a distinctly US-specific foundation. An analogy is made between the rights of nations and the rights of individuals; the rights of nations are claimed to be codifiable in international law just as “the right to life, the right to liberty, the right to the pursuit of happiness the right to equality before the law, the right to property, and the right to the observance thereof” of individuals are codified in national law. Of course, the rights to 'life, liberty and the pursuit of happiness' as well as the notion that governmental authority is derived from the 'consent of the governed' are borrowed directly from the US Declaration of Independence. Indeed the introductory address of the President of the Institute JB Scott, when introducing the Declaration in 1916, stated explicitly that “the conception of the American State is based upon the Declaration of Independence”, and its legal basis was decisions of the US Supreme Court.³⁹⁴ He further claimed that:

[No] conception of the state is or can be satisfactory to Americans which does not recognize the people of the American continent as possessed of...[inalienable] rights, and that no form of government will be tolerated by the American peoples which does not protect them in the enjoyment of these rights...

³⁸⁸ Ibid., 496.

³⁸⁹ Castro in *ibid.*

³⁹⁰ Colombian delegate *ibid.*, 494.

³⁹¹ Scott, *The American Institute of International Law*, 87.

³⁹² Ibid., 91.

³⁹³ Ibid., 87.

³⁹⁴ Ibid., 22.

[The] Government of the United States not only recognizes these rights, in so far as its citizens are concerned, but that it insists that governments in American countries in which the United States has influence shall secure to the people thereof the protection and enjoyment of these rights...

It would seem to be beyond question that the framers of the Declaration of Independence recognized the right and the necessity of peoples to create states which, however, were not to be the masters but the servants of the creators.³⁹⁵

That such sentiments lay behind the Declaration will have done nothing to temper the notion that the rights to independence and non-intervention it proclaimed were contingent on a state embodying values in accordance with the US' own. Given that the rights of citizens abroad had been the justification for numerous US interventions in the recent past, it was not surprising that some of the delegates took umbrage at Maúrtua's statement. On Maúrtua's finish, Hughes stood to confirm his approval, reiterating that the purpose of the Committee was the codification of international law rather than its creation, and that they ought not "attempt to change fundamental principles".³⁹⁶ He was followed by Guerrero who defended the International Commission's project and insisted that its article on non-intervention should form the basis of the committee's discussion.³⁹⁷ He was supported by Honorio Pueyrredon of Argentina, who argued that state sovereignty consisted of the absolute right of internal autonomy and external independence. This right, he asserted was guaranteed in powerful nations by their power, but in weak nations only by the respect of the powerful. If this right is not consecrated and practised absolutely, he claimed, international judicial harmony could not exist. Further, diplomatic or armed intervention, either temporary or permanent was a threat to the equality of states given that weak states were not able, in turn, to exercise such a right.³⁹⁸

After all the delegates had spoken, the majority position supported absolute intervention. However, Cuba, Nicaragua and the US supported Maúrtua, with several other states taking neutral positions.³⁹⁹ A sub-committee of seven members was formed in an attempt to resolve the issue, but Guerrero and Pueyrredon maintained their position, as did Hughes and his allies. In a diplomatic victory for Hughes, it was decided, therefore to postpone consideration of the International Commission's

³⁹⁵ Scott, *The American Institute of International Law*.

³⁹⁶ Scott, 'The Sixth International Conference of American States', 296.

³⁹⁷ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, 11.

³⁹⁸ Sheinin, 'Argentina and the United States at the Sixth Pan American Conference (Havana 1928)', 10.

³⁹⁹ Ibid.

projects until the next International Conference of American States.⁴⁰⁰

In the closing plenary session of the conference, however, this postponement came up for confirmation, the Argentinian delegate Laurentino Olascoaga stood to express regret that the conference had been unable to make progress with respect to intervention and arguing in favour of non-intervention. His sentiment was echoed by “delegate after delegate”,⁴⁰¹ before the Guatemalan delegate formally asked the Committee on Public International Law why it had been unable to reach a solution given that all delegates appeared in agreement on the question.⁴⁰² In the midst of this tense revival of the intervention issue, Guerrero suggested that if the conference was, as it seemed to him, unanimous in support of non-intervention, there was no reason why it ought not go on the record affirming so. He thus suggested the resolution:

The Sixth International Conference of States,

Considering that at this time the firm decision of every delegation has been expressed to the effect that the principles of non-intervention and of the absolute juridical equality of states be established in a categorical manner,

RESOLVES:

That no state has the right to intervene in the internal affairs of another.⁴⁰³

At this point, the highly charged atmosphere—accompanied by applause for non-intervention and anti-US cat-calls from the press gallery⁴⁰⁴—was broken by the entrance of Cuban academic dignitaries to deliver formal closing speeches.⁴⁰⁵ Hughes used this break in proceedings to rally his diplomatic allies, and, following the resumption of the session, Brazil, Colombia and Costa Rica all made fiery criticisms of Guerrero. Hughes himself then rose and stated he had: “never had a moment's desire to escape a discussion of this question. There is nothing to conceal. There are no hidden motives. There are no desires or ambitions which my country entertains which are opposed to the desires and aspirations of our sister republics”.⁴⁰⁶ He renounced any desire on the part of the

⁴⁰⁰ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, 12.

⁴⁰¹ Hughes, Danelski, and Tulchin, *The Autobiographical Notes of Charles Evans Hughes.*, 276.

⁴⁰² Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, 15.

⁴⁰³ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States*.

⁴⁰⁴ Beerits has it that ‘the Great Hall was ringing with violent applause and excited cries each time one of the delegates spoke in favor of the non-intervention proposal’. Quoted in Hughes, Danelski, and Tulchin, *The Autobiographical Notes of Charles Evans Hughes.*, 297.

⁴⁰⁵ Sheinin, ‘Argentina and the United States at the Sixth Pan American Conference (Havana 1928)’, 15.

⁴⁰⁶ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, 14.

US to compromise the independence of the Latin American states:

We yield to none in the establishment of the idea of sovereignty and independence for every one of the American Republics from the greatest to the smallest...We desire to respect the rights of every country and to have the rights of our own country equally respected. We do not wish the territory of any American Republic. We do not wish to govern any American Republic. We do not wish to intervene in the affairs of any American Republic. We simply wish peace and order and stability and recognition of honest rights properly acquired so that this hemisphere may not only be the hemisphere of peace but the hemisphere of justice.⁴⁰⁷

Addressing specifically the case of Nicaragua, however, Hughes stated:

Let us face facts. The difficulty if there is any, in any one of the American Republics, is not of any external aggression. It is an internal difficulty, if it exists at all. From time to time there arises a situation most deplorable and regrettable in which sovereignty is not at work, in which for a time in certain areas there is no government at all, in which for a time and within a limited sphere there is no possibility of performing the functions of sovereignty and independence. Those are the conditions that create the difficulty with which at times we find ourselves confronted. What are we to do when government breaks down and American citizens are in danger of their lives? Are we to stand by and see them killed because a government in circumstances which it cannot control and for which it may not be responsible can no longer afford reasonable protection?...I am not speaking of those distressing incidents which may occur in any country however well administered. I am speaking of the occasions where government itself is unable to function for a time because of difficulties which confront it and which it is impossible for it to surmount.⁴⁰⁸

Having turned around the problem from one of intervention to one of internal order, echoing both Roosevelt's policeman⁴⁰⁹ and Wilson's denial of the Huerta government's sovereignty, Hughes went on to invoke international law for the legitimacy of its interventions:

Now it is a principle of international law that in such a case a government is fully justified in taking action—I would call it interposition of a temporary character—for the purpose of protecting the lives and property of its nationals. I could say that that is not intervention...But if I should subscribe to a formula which others thought might prevent the action which a nation is entitled to take in these

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid.

⁴⁰⁹ Indeed, President Coolidge, on first sending marines into Nicaragua in 1925, said: 'We are not making war on Nicaragua anymore than a policeman on the street is making war on passers-by'. Quoted in Klein, *Sovereign Equality among States*, 89.

circumstances, there might come alter the charge of bad faith....Of course the United States cannot forego its right to protect its citizens. No country should forego its right to protect its citizens.⁴¹⁰

Hughes continued, reiterating his arguments from the committee that international law cannot be changed by the resolutions of the conference, and re-emphasising the duties of states as well as their rights, culminating in the withering claim: "we cannot codify international law and ignore the duties of states, by setting up the impossible reign of self-will without any recognition upon the part of a state of its obligations to its neighbors".⁴¹¹

The combination of Hughes' oratory and the US diplomacy succeeded in taking the wind out of the sails of the late push for non-intervention.⁴¹² Guerrero withdrew his proposal, and the conference voted unanimously to defer consideration of the question of intervention to the next conference.⁴¹³ Although the push for absolute non-intervention was repelled in Havana, it was nonetheless an important moment in the history of the codification of the rule. Havana was the first time that Latin American states openly challenged the US over intervention, forcing it to articulate a defence of its policy, and beating the path for continued Latin American opposition to US practice. Although the question of the contours of a non-intervention rule was deferred at the Sixth Conference, the momentum in Latin American thought toward absolute prohibition continued to build in the subsequent years. The movement for equality, unfettered independence and non-intervention in Latin America was accompanied by increasingly significant questioning from within the US of its superintendence of the hemisphere, both in popular opinion and within government.⁴¹⁴ The counterproductive nature of unilateral intervention, especially when motivated by the uncomfortable bedfellows of both state independence and the consent of the governed, was beginning to be recognised and closer ties with the Latin American states sought.⁴¹⁵ By the time of

⁴¹⁰ United States, *Report of the Delegates of the United States of America to the Sixth International Conference of American States*, 14.

⁴¹¹ Ibid., 15.

⁴¹² The speech of the Nicaraguan delegate who, on Hughes' prompting, spoke after him stated that the US was only in Nicaragua by request also quietened the advocates of absolute non-intervention Scott, 'The Sixth International Conference of American States', 302–4.

⁴¹³ Hughes, Danelski, and Tulchin, *The Autobiographical Notes of Charles Evans Hughes.*, 278.

⁴¹⁴ Walter Lippmann, 'Second Thoughts on Havana', *Foreign Affairs* 6, no. 4 (1928): 541, doi:10.2307/20028641; Klein, *Sovereign Equality among States*, 97.

⁴¹⁵ Walter Lippmann summed up the policy dilemma provoked by the inconsistent moral position of the US thus: 'Step by step we have been pushed over a course which begins with the Monroe Doctrine and ends with our trying to impose free and fair elections upon countries which are theoretically sovereign and independent. The links in the chain are as follows: under the Monroe Doctrine we alone can intervene in this hemisphere; because the Central American countries are too immature to conduct elections they have chronic revolutions; because they have revolutions they have disorder; because they have disorder we are compelled to intervene because we do not wish to intervene we have in effect forbidden revolution; to enforce our prohibition we

the Seventh International Conference of American States, which took place in Montevideo in 1933, the US also had a new president, Franklin D Roosevelt, who had, in his inaugural address, declared a new era for US foreign policy based on the principle of the 'good neighbour'. This neighbour, in a "world of neighbors...resolutely respects himself and, because he does so, respects the rights of others".⁴¹⁶ Although the US rhetoric of respecting the independence of the other American states may have seemed familiar, it was reflective of a change of social role from that of a hemispheric policeman that was accompanied by a change in practices of intervention.⁴¹⁷ This, coupled with the increasing unity of the Latin American states on the subject, made the debates at Montevideo markedly different from the fraught atmosphere of five years earlier.

The Second Sub-Committee of the conference, charged with re-examining the issues postponed in Havana, witnessed a resurrection of the work of the International Commission of Jurists, which had, in the words of the delegate of El Salvador, been "thrown aside, trampled on" in Havana, to be replaced by "declarations of correlated principles so interwoven that they might be used to defend either the positive or the negative side of intervention".⁴¹⁸ Here delegates freely and openly criticised the actions of the US. Cuba and Nicaragua, which had supported the US position throughout the Sixth Conference, under conditions akin to protectorates, now admonished the "imperialist extension of the Monroe Doctrine" of the Roosevelt Corollary,⁴¹⁹ and proclaimed the "holy principle of non-intervention".⁴²⁰ Other delegates addressed directly Hughes' arguments from Havana, urging their rejection on the basis that the absolute prohibition of intervention would remove any ambiguity and thus remove distrust from American inter-state relations.⁴²¹ Hughes' argument that intervention was "indispensable" on occasions was rejected as dangerous and that an alternative idea to necessity must be found to harmonise hemispheric relations on the "superior plane" of international law. The delegates were urged:

have to intervene; because we intervene we are in the morally unpleasant position of always supporting the existing regime; because we think that some change of government must be allowed, because no change can take place peaceably, because we won't permit changes that are not peaceable, we have to intervene again to compel the natives to submit to peaceable elections. What lies beyond that, I do not know. But it looks very much as if, having imposed a free election, we should have to keep the marines abroad to see that nobody demands a recount. We are finding it very difficult to impose self-government upon the natives' (Lippmann, 'Second Thoughts on Havana', 549).

⁴¹⁶ Franklin Delano Roosevelt, 'First Inaugural Address', 4 March 1933, <http://www.bartleby.com/124/pres49.html>.

⁴¹⁷ Bemis, *The Latin American Policy of the United States*, 259.

⁴¹⁸ Seventh International Conference of American States, *First, Second and Eighth Committees: Minutes and Antecedents* (Montevideo, 1933), 104.

⁴¹⁹ Ibid., 106.

⁴²⁰ Ibid., 107.

⁴²¹ Ibid., 112.

Let us seek in the talk of Law the means by which Law may be the solution of our interests, of our comforts, of our reciprocal needs...In order to do this we must vote for non-intervention. Intervention is an elemental principle in juridical matters. There exist no rights against rights. Sovereignty is a right. How then can there be rights, or laws, against sovereignty?⁴²²

The absolute nature of sovereignty was a common theme, linked to its often-cited corollary non-intervention, as a guarantor of the freedom of states:

[Full] sovereignty is contrary to and does not tolerate foreign domination; for that reason the Chilean people are willing to consecrate, in the International Law which is being elaborated for the future of our relations, the principle [i.e. non-intervention] which shall establish perfect freedom, absolute autonomy of Nations, to rule their own destinies in all the aspects of their activities.⁴²³

Among this torrent of support for non-intervention, the US delegate, Cordell Hull, affirmed that the US was “as much opposed as any other government to interference with the freedom, the sovereignty, or other international affairs or process of the governments of other nations”, and reassured the delegates that “no government need fear any intervention on the part of the United States under the Roosevelt Administration”.⁴²⁴ In the debate on non-intervention, Hull also referred to a speech he had made earlier in the conference where he had stated that “every nation alike earnestly favors the absolute independence, the unimpaired sovereignty, the perfect equality, and the political integrity of each nation large or small, as they similarly oppose aggression in every sense of the word”. He also assured the conference that the US was doing its “upmost” to reverse any treaty arrangements, such as that with Cuba, providing for US intervention.⁴²⁵

When it came time to vote on the proposals, Hull cast his vote in the affirmative, acquiescing to an article that stated: “No state has the right to intervene in the internal or external affairs of another”.⁴²⁶ He did, however, attach a reservation; due to the lack of time at the conference to prepare interpretations and definitions, the US would “follow scrupulously the doctrines and policies which it has pursued since March 4”, Roosevelt's inauguration, “and the law of nations as generally

⁴²² Ibid., 114.

⁴²³ Ibid., 117.

⁴²⁴ Ibid., 121.

⁴²⁵ Ibid., 24.

⁴²⁶ Cordell Hull, *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933.*, Conference Series, no. 19 (Washington: U.S. Govt. Print. Off., 1934), 18, <http://catalog.hathitrust.org/Record/008296095>.

recognized and accepted".⁴²⁷ This reservation was a significant one, given that it suggested the US was not willing to relinquish the justifications for intervention traditionally claimed under international law, such as intervention to protect citizens. However, Montevideo was the first time that the US had committed itself to the codification of the non-intervention principle to which it had often rhetorically claimed adherence. It also marked a shift in US behaviour away from unilateral intervention, matching Roosevelt's pronouncements. This shift was formalised in 1936 at the Buenos Aires Special Conference for the Maintenance of Peace. Called by the US, this conference repeated the absolute prohibition of intervention, to which the US agreed without reservation, renouncing the right as well as the practice.

In the 1920s and 1930s, then, the Latin American states succeeded in progressively drawing from the US a binding commitment to absolute non-intervention. In doing so, they espoused a Categorical Idea of state freedom. In this idea, states were not free by virtue of formal independence, but rather when they were free of outside interference in their affairs. Crucial to this idea of freedom was the institution of positive international law; it was only through law that the interference of powerful states in the affairs of weaker states could be reined in and relations of control between states reconfigured. Although the states advocating this position did not deny that they had duties under international law, to make their right of intervention conditional on such duties would be to leave the door open to domination of weak states by the strong.

The Categorical Idea of state freedom was challenged, both in practice and in debate, by the Paternalistic Idea of state freedom. Espoused by the US and, in Havana, its closest Latin American allies, fundamental to the Paternalistic Idea was the notion that in order to be self-mastering, and be in control of their destiny, states must meet certain pre-determined conditions. At Havana, this was brought together under the terminology of responsibility, but US interventionary practice and broader discourse shows that it also rested on notions of civilisation, order and democracy. If a state failed adequately to embody such values, outside intervention was sometimes required in order to develop its self-mastery.

Conclusion

⁴²⁷ Seventh International Conference of American States, *Plenary Sessions* (Montevideo, 1933), 72.

In this chapter I have examined debates about intervention that took place in the Concert of Europe between 1818 and 1822 and in the western hemisphere focusing on the first decades of the 20th century. I have done so in order to piece together the ideas of state freedom held by the human actors involved in those debates and to show how they are implicated in structuring legitimate relations of control between states.

In the Concert of Europe I identified two ideas of state freedom, the Dynastic Idea and the Self-Help Idea of state freedom. Both of these ideas developed out of 18th century ideas that associated the liberty of states with an absence of a hegemonic state, but both extended those ideas in incompatible ways. At the heart of the Self-Help Idea was a pluralist understanding of states. States were unique individuals, each with their own internal characteristics which determined their individual sentiments and interests. Self-mastery for such agents was the uninhibited translation of these sentiments into action. The necessary conditions for the realisation of that self-mastery included the absence of a supreme state power, and hence a balance of power between states that was watched over by the great powers. Another necessary condition was the absence of general, non-specific obligation and commitment to other states. The type of system legitimated by such an idea of state freedom was then a self-help system in which states were free from general commitments to one another and free to determine their own responses to international events, on the proviso that they did not jeopardise the balance of power.

In contrast to the Self-Help Idea, the Dynastic Idea of state freedom was solidarist in nature, espousing a common idea about the nature of legitimate statehood based on historical dynastic privilege. The state, in this idea, was directly identifiable with its monarch and hence the self-mastery of states was linked with the control of monarchs over their domestic population and the control the dynastic order had over Europe in general. The key necessary condition for the realisation of this self-mastery was the suppression of popular revolt, carried out by the joint commitment of the dynastic powers. The type of system legitimated by this idea was thus one of a collective security system based on shared values regarding legitimate political authority. The relations of control made possible by these two ideas of state freedom shared some key characteristics: interference in the affairs of other states was permissible, as was great power management of European affairs. The contours of legitimate intervention and great power management were significantly divergent, however, with the two ideas demanding different justifications for intervention and different extents of great power mutual commitment. A shared heritage of the association of the freedom of states with the absence of hegemony enabled a novel

degree of cooperation between the great powers. However, the boundaries of possible cooperation, and the purposes for which it could be practiced, were limited by the idea of state freedom dominant in Britain, which prescribed a self-help system of security. The incompatibility between the Self-Help Idea of state freedom and the Dynastic Idea and its prescriptions for the collective provision of the dynastic order ultimately led to the withdrawal of Britain from the collective management of European affairs.

In the Americas in the early 20th century, two further ideas of state freedom were identifiable. Across the western hemisphere the rights of states to independence and to be masters of their own destinies were widely proclaimed. However, what was understood to constitute control over one's destiny differed fundamentally in two different ideas of state freedom. In the Paternalistic Idea, states were understood as self-mastering if they acted responsibly and embodied certain modernist values, principally civilisation, stability and democracy. It was in acting responsibly, either through their own capacity or with the assistance of foreign powers—whether requested or not—that states realised their freedom and independence. The kind of system legitimised by the Paternalistic Idea was, then, one of independent states regulated by international law, but policed by powerful representatives of civilised values.

The Paternalistic Idea was challenged by Latin American states who, through the Categorical Idea of state freedom, rejected interference in the affairs of the states of the western hemisphere, be it formal or informal domination. This absence of the domination and interference of large states was the essence of state self-mastery in the Categorical Idea, and the necessary condition for its realisation was the institutionalisation in consensual international law of an absolute principle of non-intervention. This was the mechanism through which Latin American states hoped to reconfigure relations of control and transform a politics based on power into one based on state independence and state rights. The shared history of resistance to colonial rule throughout the Americas left a legacy of shared ideas about the importance of state independence and equality, and a shared resistance to the interference of European states in the affairs of the western hemispheres. For a period, the US was able to justify its interventions in the affairs of other states on the basis of preventing European intervention, arguing that its 'interpositions' facilitated the independence of states. Though this was not the only justification given for intervention, it was a prominent rhetorical resource. However, such reasoning was incompatible with the Categorical Idea of state freedom, and the majority of American states made increasing use of international forums to forcefully contest the legitimacy of such practices. In response to this growing criticism of interventionary

practices, the US redefined its social role from one of policeman to good neighbour, a shift that brought its practices into line with what had become the prevailing idea of state freedom in the region, reconfiguring hemispheric relations of control in the process.

Chapter Four

Sovereign Equality

Introduction

In Chapter Three I analysed debates about intervention in the Concert of Europe and International Conferences of American States in order to identify ideas of state freedom and the role they have played in the politics of legitimate relations of control between states. I showed how the rejection of universal monarchy shared by the Dynastic and Self-Help ideas of state freedom facilitated the maintenance of a balance of power in 19th century Europe but that the incompatible understandings of state self-mastery at the heart of those ideas stymied greater levels of mutual commitment between the great powers. I then showed how the absolute rejection of inter-state interference of the Categorical Idea of state freedom progressively delegitimised intervention as a practice in the western hemisphere. This discredited the Paternalistic Idea of state freedom which held that the self-mastery of states could, in certain circumstances, be augmented by intervention.

In this chapter, my focus shifts to the concept of sovereign equality, or the equality of states, and relations of *authority*, or rightful command. Broadly, sovereign equality is the idea that solely by virtue of their statehood states are in some sense equal. Historically, debates about the equality of states have been concerned with the distribution of rights and obligations in the international system, and it is through debates about rightful and wrongful elements of hierarchy among states that ideas about the equality of states have been implicated in the politics of legitimate relations of control. Since its original articulation by natural law theorists in the mid-18th century, assertions of the equality of states have repeatedly been bound up with ideas about the freedom of states. I begin this chapter by analysing Emmerich de Vattel's classic account of state equality. I show how Vattel's understanding of state equality, set out in his 1758 treatise *Le Droit des Gens* ('*The Law of Nations*') was inextricably intertwined with what I term the *Natural Idea* of state freedom; an idea in which the state is conceived of as a moral person, naturally free to determine its own conduct according to the dictates of its own conscience. I do so partly because of its historical influence; Vattel's arguments were highly influential in legal and diplomatic circles throughout the 18th and 19th centuries. I do not, however, attempt to trace the direct impact of Vattel's ideas on the politics of legitimacy in his contemporary period. I am interested, rather, in the way in which Vattel's

theoretical approach to state freedom and equality, and the difficulties he wrestled with, are echoed in the politics of legitimacy of the 20th century.

The first section, then, lays out some important intellectual groundwork for the chapter and the subject of state freedom as a whole. In the second and third sections I shift my focus to ideas of state freedom embedded in the practical discourse of international relations. I examine two historical moments in which discussion of the equality of states has been highly prominent: first, the negotiations to create a Permanent Court of Arbitral Justice that took place at the second Hague Peace Conference of 1907; and second, the debates about the creation of a general international organisation that took place between the allied powers in San Francisco in 1945.

I argue that the strong idea of state equality that was insisted upon at the Hague Peace Conference was an instantiation of the Categorical Idea of state freedom introduced in Chapter Three. Animating arguments about the equality of states was the same understanding of self-mastery seen at the International Conferences of American States; that to be self-mastering a state had to be free to set its own direction without the interference of other states. Just as in Havana states argued that absolute non-intervention was necessary to prevent the domination of one state over another, in The Hague absolute equality was argued to be a necessary condition for the realisation of self-mastery. This was in contrast to the civilisational logic of the Paternalistic Idea of state freedom which legitimated elements of legal pre-eminence of the great western powers over other states. The incompatibility of these two ideas of state freedom ultimately prevented agreement on the creation of the Permanent Court.

In the third section I show that at the San Francisco Conference of 1945 the agreement reached regarding the creation of a general international organisation was facilitated by a shared understanding of state freedom that had echoes of, but transformed, both the Categorical and Paternalistic Ideas of state freedom. In this idea of the freedom of states, the *Civil Idea*, self-mastery was understood in a similar way to the Categorical Idea; self-mastery meant being able to set one's own direction free from the domination of other states. In the Civil Idea, however, this understanding of self-mastery had the crucial addendum that it was enjoyed under the subjection to international authority. The necessary condition for the realisation of this self-mastery was that international authority was characterised by both an element of legalised hierarchy between states and the active participation of all states subject to it.

The equality of states in international theory

Although the term sovereign equality has a short history relative to modern international relations, having been first used in 1907 at the Hague Peace Conference,⁴²⁸ the broader idea that inspires that concept—that a form of equality exists between states by virtue of their being states—has a much longer history. Sovereign equality—or the equality of states, as this idea was generally expressed prior to 1945—has been consistently prominent in legal theory since the 18th century, though both its meaning and its relationship with the practical politics of international relations have varied. In this section I give an account of the original conception of the equality of states, which was given its classic formulation in Emmerich de Vattel's *The Law of Nations*; a book that sold widely in 18th century Europe and was used by diplomats as a handbook as well as being hugely influential on international legal thinking.⁴²⁹ Vattel's text is important for my purposes not only because of its influential account of state equality, but also because that account is bound up with the first truly modern account of state freedom. Vattel was perhaps the first author to conceive of the international realm as one populated by autonomous moral persons, each free to determine and follow their own will, subject to no other authority, and to explore at length the consequences of that conception. At the same time as being autonomous individuals states were, by virtue of their existing as part of a natural society, subject to obligations and duties. Reconciling both the freedom and obligation of states is Vattel's principal concern, and the problematic that he sets up and explores has been an enduring one in world politics.

Vattel's approach to the equality of states is beguilingly straightforward. In a famous passage from the Preliminaries of *The Law of Nations* he states:

Since men are naturally equal, and a perfect equality prevails in their rights and obligations, as equally proceeding from nature,—nations composed of men, and considered as so many free persons living together in the state of nature, are naturally equal, and inherit from nature the same obligations and rights. Power or weakness does not in this respect produce any difference. A dwarf is as much a man as a giant; a small republic is no less a sovereign state than the most powerful kingdom.⁴³⁰

⁴²⁸ Klein, *Sovereign Equality among States*, 58.

⁴²⁹ On Vattel's influence see Fenwick, 'The Authority of Vattel'.

⁴³⁰ Vattel, *The Law of Nations*, 75.

Vattel's understanding of states as naturally equal was greatly influenced by the natural law theorist Samuel von Pufendorf, who had argued that in the state of nature, men possessed "natural liberty" in the sense that "no one is subject to another" and that, because there is "no relation of subjection", "every man is held to be equal to every other".⁴³¹ Pufendorf, as well as other influential authors,⁴³² had also made the analogy between the state of nature and the interstate realm. Once this comparison had been made, the logical conclusion was that "Commonwealths and their officials may properly claim for themselves the distinction of being in a state of natural liberty".⁴³³

The starting point for Vattel was this observation of the natural liberty of states, based on an analogy from natural law as it was understood with respect to individuals. Where Vattel differed from Pufendorf was in his assertion that changing the subject of natural law from individuals to polities necessitated a change in the way that law was applied.⁴³⁴ In doing so, he was drawing on the work of his greatest influence, Christian Wolff, whose *Jus Naturae and Jus Gentium* inspired the writing of *The Law of Nations*. Rather than applying the law of nature directly to states, Wolff derived from the law of nature the necessity of a *civitas maximae*, a sort of "great republic"—something between a federation and an overarching super-state—the civil law of which was termed by Wolff as the 'voluntary law of nations'.⁴³⁵ This solution was akin to that of human individuals coming together to form states. The civil laws of this *civitas maximae* were termed by Wolff the *voluntary* law of nations in distinction from the *necessary* law of nations that was prescribed by natural law. In Wolff's system, the voluntary law is derived from the necessary law because the laws of nature prescribe a common good that can only be achieved through a *civitas maximae*—that is to say, through a hierarchical dimension in international relations.⁴³⁶

For Vattel, however, the international hierarchy implied by the *civitas maximae* was inconsistent with the freedom and equality of nations.⁴³⁷ This rejection of the *civitas maximae* is consistent with Vattel's refusal to compromise the independence of states. Although he holds, on the one hand, that states are subject to the maxims of natural law, he also holds states to be naturally free and independent. Because of this, Vattel argues:

⁴³¹ Pufendorf, quoted in Devetak, 'Law of Nations as Reason of State', 111.

⁴³² Most notably Thomas Hobbes.

⁴³³ Pufendorf, quoted in Devetak, 'Law of Nations as Reason of State', 111.

⁴³⁴ Vattel, *The Law of Nations*, 8–9, 12, 68.

⁴³⁵ *Ibid.*, 14.

⁴³⁶ *Ibid.*, Preface; Onuf, *The Republican Legacy in International Thought*, 78.

⁴³⁷ Vattel, *The Law of Nations*, sec. Preface; Onuf, *The Republican Legacy in International Thought*, 78.

A nation then is mistress of her own actions so long as they do not affect the proper and perfect rights of any other nation,—so long as she is only *internally* bound, and does not lie under any *external* and *perfect* obligation. If she makes an ill use of her liberty, she is guilty of a breach of duty; but other nations are bound to acquiesce in her conduct, since they have no right to dictate to her.

Since nations are free, independent, and equal,—and since each possesses the right of judging, according to the dictates of her conscience, what conduct she is to pursue in order to fulfil her duties,—the effect of the whole is, to produce, at least externally and in the eyes of mankind, a perfect equality of rights between nations, in the administration of their affairs and the pursuit of their pretensions, without regard to the intrinsic justice of their conduct, of which others have no right to form a definitive judgment; so that whatever may be done by any one nation, may be done by any other; and they ought, in human society, to be considered as possessing equal rights.⁴³⁸

Vattel holds, then, that states are by their nature both free and equal—they have the right to determine their own conduct according to their own, internal decision-making procedures—yet he also recognises that they are necessarily subject to authoritative obligations. The fact that states exist in a “natural society”⁴³⁹ (the state of nature) imposes upon them the obligations of natural law. Beyond this natural society derived from natural law, however, the *practice* of international relations creates further, societally generated, obligations between states. According to Vattel, “[t]he continual attention of sovereigns to every occurrence, the constant residence of ministers, and the perpetual negotiations, make of modern Europe a kind of republic”.⁴⁴⁰ States may be both naturally and perfectly free but in Vattel's understanding of international relations there nonetheless exist both universal obligations derived from natural law and societal obligations derived from the practice of statehood. Vattel is aware that just as the natural freedom of individuals in the state of nature would render that freedom meaningless, so would the unconstrained freedom of states render the international system threatening to that very freedom.

The way Vattel reconciles state obligations with their freedom to determine their own conduct is to maintain a clear distinction between the necessary and voluntary laws of nations. The former derives its authority from Nature to which states are inescapably obligated. The judgement as to whether a state's actions are in conformity with its obligations to the international law of nature, however, can only come from that state itself; this leaves states free to determine their own conduct. States are also beholden, however, to the voluntary law of nations—that is to say,

⁴³⁸ Vattel, *The Law of Nations*, 75 Original emphasis.

⁴³⁹ Ibid., 72.

⁴⁴⁰ Ibid., 496.

obligations that rest on states by virtue of their forming part of a society. How can Vattel reconcile states being obligated to other states with their being naturally free and equal? He does so by refusing to derive (as Wolff does) voluntary law from natural law—obligations to which are unavoidable—instead deriving voluntary law from *state practices*; voluntary law derives its authority from its recognition by states, and hence is based on a presumed consent.⁴⁴¹ In Vattel's words:

[A] nation ought never to lose sight of [necessary law] in deliberating on the line of conduct she is to pursue in order to fulfil her duty: but when there is question of examining *what she may demand of other states*, she must consult the *voluntary law*, whose maxims are devoted to the safety and advantage of mankind.⁴⁴²

It is through this double system of the laws of nations that Vattel attempts to reconcile the tension between the liberty of states and their societal duties, and it is this system that precludes any state from claiming a higher status than the others.

What Vattel understands by state freedom, then, is that states ought to be left to form their own judgements as to what they can and cannot do or, rather, what is proper and improper for them to do.⁴⁴³ In other words, states have their own moral conscience and it is only by this conscience that they should be constrained and directed. The consequence of this liberty of conscience is Vattel's general law that “each nations should be left in the peaceable enjoyment of that liberty which she inherits from nature”.⁴⁴⁴ Thus the natural freedom of nations, seemingly paradoxically, generates a duty on states to respect the natural rights of each other. Indeed, as we have seen, states are duty bound in several respects by natural law. However, because of the natural freedom of states, it is only for a state itself to judge whether or not it is complying with those duties. By maintaining the freedom of states, then, Vattel ensures a pluralistic international society that does not permit states positions of superiority or inferiority on the basis of their behaviour. In this way, then, the freedom of states demands their equality. Likewise, the equality of states, which precludes hierarchical relations, ensures they are subject only to their own conscience. Together, it is the fact that states are “free, independent and equal” that creates the “perfect equality” of rights between them—a position that is blind to the “intrinsic justice of their conduct”.⁴⁴⁵ The only exception to the freedom of states that Vattel permits is when they are subject to an *external perfect* duty; that is to say, a

⁴⁴¹ Onuf, *The Republican Legacy in International Thought*, 79.

⁴⁴² Vattel, *The Law of Nations*, 79 my emphasis.

⁴⁴³ *Ibid.*, 74.

⁴⁴⁴ *Ibid.*

⁴⁴⁵ *Ibid.*, 75–76.

duty to another state that is accompanied by the power of compulsion. Although the existence of such an obligation appears to contradict Vattel's position on the freedom and equality of states, it is permitted because it is the corollary of the *perfect right* of states to self-preservation. Nations have a right, therefore, to forcibly repress a state which "openly violates the laws of the society which nature has established between them, or who directly attacks the welfare and safety of that society".⁴⁴⁶ Nonetheless, care must be taken in the exercise of this perfect right not to "prejudice the liberty of nations".⁴⁴⁷

Undergirding Vattel's theory of the liberty and equality of states is a conception of states as individual moral agents. The equality of states that Vattel posits is a *natural* equality that stems from their essence as individuals. Each state, according to Vattel, possesses an "understanding, volition, and strength peculiar to itself" and by virtue of this should be considered as a "moral person".⁴⁴⁸ For this reason, I term the idea of state freedom explored by Vattel the Natural Idea of state freedom. The important intellectual foundation of the natural freedom and equality of states supporting Vattel's approach was influential even after the natural law theory from which it sprang fell out of favour. The publicists of international law that followed Vattel in the 18th and 19th centuries largely accepted his formulation of the equality of states, often uncritically and with very little modification.⁴⁴⁹ Although the explicit reliance on a system of natural law waned, the notion of equality as a 'natural right' persisted, often mutated slightly into an 'essential', 'fundamental', or 'basic' right or attribute of states, irrespective of territory, wealth or power.⁴⁵⁰ This position was not unanimous, however, and the equality of rights and duties between states was contested in legal theory. James Lorimer was one of the most strident critics of the doctrine of equality, stating that although "all states are equally entitled to be recognized as states, on the simple ground that they are states", all states "are not entitled to be recognized as equal states, simply because they are not equal states".⁴⁵¹ The disconnect between the theory of equality of states and the empirical evidence—Lorimer asserted that the doctrine can be "safely said to have been repudiated by history"⁴⁵²—was a challenge to advocates of sovereign equality who had to resolve their position

⁴⁴⁶ Ibid., 77.

⁴⁴⁷ Ibid.

⁴⁴⁸ Ibid., 73.

⁴⁴⁹ Dickinson, *The Equality of States in International Law*, 100.

⁴⁵⁰ For a discussion of this point see *ibid.*, 100–103; See also Phillimore and Twiss, quoted in Armstrong, 'The Doctrine of the Equality of Nations in International Law and the Relation of the Doctrine to the Treaty of Versailles'.

⁴⁵¹ Armstrong, 'The Doctrine of the Equality of Nations in International Law and the Relation of the Doctrine to the Treaty of Versailles', 548.

⁴⁵² Ibid., 547.

with not only material differences between states, but also evident differences in international rights and duties.

Theorists responded to this disconnect by positing an equality in *capacity* for rights and duties of states, rather than an absolute equality of rights themselves.⁴⁵³ The justifications given for the equality of capacity for rights and obligations of states vary between 19th century international legal authorities. Some publicists—such as Bluntschli, Phillimore and Wheaton—maintain, similarly to Vattel, that equality is a “natural” condition between states.⁴⁵⁴ Others have dropped Vattel’s basic reason for attributing equality to states, but nonetheless maintain the analogy between individual persons as equals and states as (equal) international persons.⁴⁵⁵ Though the justification for this analogy is regularly left implicit, the attribution of equality seems to rest on a fundamental commensurability and similarity that all states possess by virtue of their personhood. As Giuseppe Carnazza Amari argued:

States and nations, resulting from the union of a large number of human beings, have the same characteristics which appear in their members. Now if men are equal by type and in their rights, states, which are collective persons composed of men, are likewise juridically equal beings. Whatever the form of government, the more or less, extensive area, the degree of power, the varied development of knowledge, arts, and riches, the military strength, the more or less favourable climate in which they are located, the fertility or aridity of soil, the difference in the origin of the inhabitants, the different nature of the territory, whether adjacent to the sea or in the interior, states are always juridically equal because they are always collective persons who deserve the same juridical respect.⁴⁵⁶

On this view, differences in form, territory, wealth and character do not bear on the equality of states because they share an equality of “type” by virtue of what they *are*—collective persons. In other words, states are equal because they are all states; or, more precisely, because they are *sovereign* states.

The sovereignty of states as a justification for equality is one that has been given greater emphasis by later authors than it was in Vattel. Abandoning natural law as a justification for equality, a number of authors have looked to the nature of the international system for a theoretical foundation. Just as the liberty and independence of states was an important element of Vattel’s

⁴⁵³ See, for example, Carnazza Amari, quoted in Dickinson, *The Equality of States in International Law*, 107.

⁴⁵⁴ Ibid., 109–111.

⁴⁵⁵ See Pradier-Fodéré, Piédelievre and Despagnet, quoted in *ibid.*, 112.

⁴⁵⁶ Quoted in *ibid.*, 117.

position on equality, later publicists have seen a logical connection between the two: “The equality of sovereign states is the necessary consequence of their independence. They are all equally sovereign. They have no power above them. No one of them is placed above the others.”⁴⁵⁷ The difference between this position and that of Vattel is, of course, that rather than being based on a doctrine of natural law, it is based on the principle of sovereignty and the flat structure of international relations that it implies.

However, this novel justification for treating states as equal—the anarchic international structure—also opened up the way to undercutting the principle of equality entirely. Shorn of a more fundamental reason for holding states as equal, arguments for equality based on the independence of states face the criticism that “the equality of sovereign states is merely their independence under a different name”, as John Westlake put it.⁴⁵⁸ The scepticism of Westlake and others is, according to Sinclair Armstrong, typical of a shift in the position of publicists toward the latter part of the 19th century.⁴⁵⁹ While earlier publicists were generally content to uncritically follow the positions of the classical theorists of state equality, heading toward the turn of the 20th century authors were doubtful as to whether the doctrine of equality of states could be meaningful.

The broad shift in scholarly opinion during the 1800s toward a questioning of the doctrine of the equality of states is not a great surprise given the unfolding political and juridical context. If anything, it is surprising that the idea of retained so much currency given the alternative modes of organising interstate relations that were dominating Europe during that period. As noted in Chapter Three, 19th century Europe was dominated by the great powers who, in a loosely institutionalised manner, managed international affairs with little concern for the interests and opinions of materially weak states.⁴⁶⁰

While the principle of sovereign equality did not disappear with the development of the Concert of Europe, it was superseded as a mode of governing European inter-state relations. Heading toward the 20th century, however, with the Concert system breaking down as a successful method of conflict prevention, the relationship between great power primacy and sovereign equality continued to evolve. Not only did representation at congresses of the Concert of Europe become more

⁴⁵⁷ Rivier, quoted in *ibid.*, 114.

⁴⁵⁸ Westlake, quoted in Baker, ‘Doctrine of Legal Equality of States, The’, 4.

⁴⁵⁹ Armstrong, ‘The Doctrine of the Equality of Nations in International Law and the Relation of the Doctrine to the Treaty of Versailles’, 544–5.

⁴⁶⁰ On the great power hegemony of in 19th century Europe see Simpson, *Great Powers and Outlaw States*, chap. 4.

egalitarian,⁴⁶¹ but a parallel regime of management of European affairs emerged that was more consistent with the doctrine of state equality; functional conferences—such as the 1863 Geneva Convention on Soldiers Wounded in Battle—were convened in which the hierarchical mode of organisation was much less salient.⁴⁶² It was in this context that states came together as formal equals in 1907 at The Hague to discuss the creation of a Permanent Court of Arbitral Justice; the subject of the next section.

Strong equality and state sovereignty: The Hague Peace Conference (1907)

As we saw in Chapter Three, in the first decades of the 20th century a Categorical Idea of state freedom was identifiable in western-hemisphere debates about non-intervention. In the Categorical Idea, self-mastery consisted in the total absence of outside influence in the affairs of independent states. The necessary condition for the realisation of this idea of self-mastery was the unqualified codification of state rights in international law. The previous chapter reconstructed the development of the Categorical Idea of state freedom through western hemispheric debates about intervention, detailing how its repeated articulation in American forums was implicated in the politics of the legitimacy of intervention which eventually saw the US transform its role identity in the hemisphere from one of ‘policeman’ to ‘good neighbour’. Intervention was not, however, the only issue area through which the Categorical Idea of state freedom was articulated. Latin American arguments for the codification of an absolute right to non-intervention developed alongside a prominent discourse about the equality of states. The equality of states, their independence and their right to non-intervention were relentlessly linked in American diplomatic forums in the late 19th and early 20th century. Both non-intervention and equality were held to be essential for states to realise their essential, and rightful, nature as sovereign and self-directing entities.

Perhaps the high-watermark of the assertion of the equality of states came not in an inter-American diplomatic setting, however, but in an even wider international forum; the Hague Peace Conference of 1907. A follow up to the 1899 Hague Peace Conference, 45 states came together at the second Hague Peace Conference to negotiate the expansion of the international juridical order in a self-conscious attempt to regulate international affairs through law rather than power, right rather than might. At the turn of the 20th century, the balance of power, which had previously been understood

⁴⁶¹ Ibid., 128.

⁴⁶² Ibid., 129.

as the key to the preservation of state freedom, was viewed with increasing scepticism as a mechanism to prevent the domination of militarily strong states. In its place, “multilateralism and contractual international law” were promoted at the Hague Conferences as alternative “basic institutional practices” in the international system.⁴⁶³

The keystone of the second Peace Conference was the aim of establishing a Permanent Court of Arbitral Justice (PCAJ) to replace the *ad hoc* system of arbitration agreed on in 1899, and to which states were to be required to refer their disputes. Ultimately the conference would fail to agree on the creation of the PCAJ, with the major sticking point proving to be disagreement over the principle of the equality of states. In the debate about the PCAJ and the equality of states we can again see the incompatibility of the Categorical and Paternalistic Ideas of state freedom. As detailed in the last chapter, the Categorical and Paternalistic Ideas of state freedom outwardly shared a pluralism and a basic notion that states ought to be free to be self-directing and self-governing in whatever direction they so wished. In the Categorical Idea, this was an absolute and essential right of statehood that had to be codified unconditionally in international law in order to be realised. In the Paternalistic Idea, however, this pluralism was underpinned and limited by a universalist civilisational discourse which held the realisation of statehood to be bound up with the realisation of ‘civilised’ values. States had a right, and even a duty, to promote these values even if it meant exerting control beyond their own borders.

Debates about intervention were not prominent at The Hague, but the uneasy tension in the Paternalistic Idea between, on the one hand, the notion that states were individuals with the right to develop as they see fit and, on the other, the belief in a value-based hierarchy of states was exposed by discussions about the PCAJ. The Western powers put forward a number of proposals which attempted to marry state equality with the institutionalisation of a pre-eminence for the ‘civilised’ powers.⁴⁶⁴ The aspect of the PCAJ in which these twin aims were manifested was the composition of its judges. With over 40 states to be party to the convention on the PCAJ, it was argued that allowing each state to nominate one judge to sit on the court—a structure that would ensure perfect equality—would render the court unwieldy and unworkable. The Western powers suggested various permutations of court composition which they claimed to be consistent with equality but which nonetheless afforded them pre-eminence.

⁴⁶³ Reus-Smit, *The Moral Purpose of the State*, 123.

⁴⁶⁴ Simpson, *Great Powers and Outlaw States*, 140–141.

The suggestion for court composition that gathered most support and generated most debate was a joint British, German and US proposal which organised states into a number of rankings. In introducing this proposal, the US delegate and esteemed jurist James Brown Scott began by quoting the US Chief Justice Marshall's claim that "no principle of general law is more universally acknowledged than the perfect equality of nations".⁴⁶⁵ Accepting the doctrine of state equality, Scott contrasted international law with the unequal realm of brute force, asserting that the "conception of great and small Powers finds no place in a correct system of international law".⁴⁶⁶ He also claimed equality of right to be "axiomatic" in international law.⁴⁶⁷ This proclamation of equality was consistent with a growing prominence of the equality of states in US diplomatic discourse; a year earlier at the Third International Conference of American States, held at Rio de Janeiro, US Secretary of State Elihu Root used his opening address to boldly proclaim the equality of states and their equal rights regardless of differences in material power.⁴⁶⁸ This language of equality was warmly embraced by other American states and, according to Robert Klein, Root's speech was "referred to constantly by Latin American delegates attending the Hague Peace Conference".⁴⁶⁹

It was, however, during Theodore Roosevelt's presidency that this discourse of state equality was growing in prominence, and, as we saw in Chapter Three, Roosevelt (along with other US Presidents of the period) saw state rights as conditional on meeting standards of civilisation. Intermingled with assertions of equality, the language of civilisation abounded at The Hague, with the development of the PCAJ claimed to be a "triumph of civilization and justice".⁴⁷⁰ This logic of civilisation was reflected in the reduced prominence of judges nominated both by small states but also large but "uncivilised" powers Turkey and China.⁴⁷¹ In the proposed composition, Scott asserted the basis of 'one state, one judge' unworkable and insisted that the delegates must find "some other principle" upon which to base the court.⁴⁷² Scott claimed that such a principle could be found in the form of material interests. On this view, while states should be considered legally equal, and have the same interest in justice considered in the abstract, this interest is made concrete in an unequal manner. Based on this reasoning, the joint proposal was to classify states according to population, wealth and industry; variables held to affect the likely need for arbitration. The proposal was for the court to be

⁴⁶⁵ Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:321.

⁴⁶⁶ Ibid., 2:312.

⁴⁶⁷ Ibid., 2:609.

⁴⁶⁸ Klein, *Sovereign Equality among States*, 52.

⁴⁶⁹ Ibid., 54.

⁴⁷⁰ US delegate Joseph Hodges Choate in Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:687. For further examples, see Ibid., 2:645, 694, 701.

⁴⁷¹ Simpson, *Great Powers and Outlaw States*, 141.

⁴⁷² Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:322.

composed of 17 judges for a 12-year period. Each state would appoint one judge, but not all judges would serve for the same length of time; rather, judges nominated by 'first-class powers' would serve the full 12 years, judges of second-class powers for ten years, third-class for four years, and fourth-class for one year. This arrangement would mean that each state would have the right to nominate a judge to the court, and hence preserve the equality of states, while also reducing the number of sitting judges at any one time to a manageable number.

Scott's claim that the proposed composition of the court was consistent with the principle of equality was highly contentious. Provided every state had the right to appoint a judge, he argued, there was "no derogation from the principle of sovereignty and equality that the judges so selected may sit at various times and in rotation".⁴⁷³ At the same time as maintaining that his proposal was in harmony with sovereign equality, Scott made a distinction between theory and practice; while the "theorist and logician" may be able to elevate a principle above all other concerns, the "practical man" he claimed "—the man of affairs, the statesman—must many a time modify, indeed sacrifice, a principle, however just, to meet a present and pressing need".⁴⁷⁴ As well as repeatedly affirming that the proposal was "based on the juridical equality of all the states represented in or invited to the Conference",⁴⁷⁵ Scott nonetheless also attempted to legitimise the proposal in two other ways. First, he suggested that material differences between states *entitled* some states to a greater participation in the court.⁴⁷⁶ Second, he argued that despite the differences between states in the amount of time their individual judge would sit for, the proposal was nonetheless *representative* of all states interests thanks to the balance among the judges sitting at any one time of geographical location, language and legal system.⁴⁷⁷

Despite Scott's attempts to present the proposal as legitimate, strong opposition to the plan was voiced by a significant number of states. Principal among them was Brazil, who's delegate Ruy Barbosa criticised the scheme relentlessly on the grounds that it violated the principle of the equality of states. Barbosa described the argument that the proposal upheld sovereign equality on the basis that every state could appoint a judge as "sophistical".⁴⁷⁸ He analysed the right to be

⁴⁷³ Ibid., 2:609.

⁴⁷⁴ Ibid., 2:610 Although these words referred to a compromise in the US proposal from the principle of classifying states purely according to population to include 'other material interests', they nonetheless implicitly suggested that a compromise on pure ideas of equality were needed for a functioning international court.

⁴⁷⁵ Ibid., 2:611.

⁴⁷⁶ Ibid., 2:612.

⁴⁷⁷ Ibid., 2:610.

⁴⁷⁸ Ibid., 2:620.

represented in the PCAJ and scoffed at the suggestion that the right can be equal when lengths of service are unequal. Would equal right be preserved, he asked rhetorically, if, instead of a year, the judges of some states were in service for one month, or one week, or for only 24 hours, while those of others sat for the full 12 years? He then went on to elaborate his point conceptually; the equality of a right is maintained, he asserted, only when the conditions of exercise of that right are equal. Inequality of exercise, on the other hand, “implies inequality in the right itself, for the value of a right can be measured only by the juridical possibility of exercising it”.⁴⁷⁹ Barbosa further clarified that there were, in fact, two rights at stake in the composition of the court; the right to appoint and the right to sit. While equality of the right to appoint was preserved in the proposal, he argued, in the right to sit states would be “absolutely unequal” and the equality of states would be violated.⁴⁸⁰

Barbosa’s lengthy exposition on the equality of states articulated a number of conceptual points which demonstrate that the Categorical Idea of state freedom had implications beyond its importance for practices of intervention. Barbosa’s position on equality rested on an understanding of states as analogous to individuals, diverse but nonetheless equal. According to Barbosa, differences exist between individuals with respect to “intellectual and moral capacity”, as well as honesty, wealth and strength, but individuals nonetheless enjoy the same “essential rights”, rights that structured individuals’ relationship with political authority:

Civil rights are the same for men everywhere. Political rights are the same for all citizens. Lord Kelvin or Mr John Morley have the same vote in electing the august and sovereign Parliament of Great Britain as the ordinary workman dulled by work and misery.⁴⁸¹

Through this analogy Barbosa argued that the allocation of rights is based on a commensurability of *category* rather than individual characteristics: as “organized and independent” states, states are sovereign and, by virtue of being part of this category, states are equal—“sovereignty means equality”.⁴⁸²

The principle of sovereignty was at the heart of Barbosa’s conceptual schema. Not only was sovereignty the essential attribute of states on which equality and state rights were based—“absolute” and their “elementary right *par excellence*”⁴⁸³—but it was also the principle through

⁴⁷⁹ Ibid., 2:628.

⁴⁸⁰ Ibid.

⁴⁸¹ Ibid., 2:150.

⁴⁸² Ibid.

⁴⁸³ Ibid.

which the freedom of states was realised. Sovereignty, and the absolute equality it demanded, constituted the self-mastery of states by guarding against two threats to states' control over their own lives; the domination of powerful states and subjection to higher authority. Given the reality of inequalities of power between states, and the resultant possibility of the domination of the strong over the weak, it was the juridical principle of sovereignty that enabled the self-mastery of states, free from the control of others:

Hitherto...States, however diverse because of their extent of territory, their wealth, their power, had nevertheless, among themselves one point of moral commensuration. This was their national sovereignty. Upon this point their juridical equality could be established unshakably. In this fortress of an equal right for all, and equally inviolable, inalienable, incontrovertible, each State, large or small, felt that it was so truly its own master and even as safe with regard to the rest, as the free citizen feels safe within the walls of his own house. Sovereignty is the great fortress of a country. It constitutes the basis of the entire system of its juridical defense within the field of international law.⁴⁸⁴

The proposed PCAJ, by ranking states and affording them unequal rights, was “derogatory” to the sovereignty of states,⁴⁸⁵ and would leave it “despoiled”.⁴⁸⁶ As a result of this compromising of the sovereignty of states, the proposed PCAJ would compromise the “independence of States in their mutual relations”.⁴⁸⁷ State independence would be compromised because the PCAJ would have the opposite of its proclaimed effect; rather than furthering the move from a world of power politics to one of international justice, the PCAJ would enable the domination of weak states by the strong by “proclaiming...the legal predominance of might over right”.⁴⁸⁸ Although states might have believed they were furthering international justice, by disturbing the “equality of right” that was the “last brake to the ambition and to the pride of the peoples”, in creating a PCAJ that enshrined inequality they were opening the door to domination.⁴⁸⁹ By establishing a “basis of justice whose nature would be characterized by a juridical distinction of values between the States according to their greatness of power”, the PCAJ would mean great powers would “no longer be formidable only by the weight of their armies and fleets. They would also have a superiority of right in the international magistracy”.⁴⁹⁰ Differences in material power would thus be institutionalised “in the very heart of the tribunal whose function it should be to re-establish the balance of justice between the weak and

⁴⁸⁴ Ibid., 2:647.

⁴⁸⁵ Ibid., 2:621.

⁴⁸⁶ Ibid., 2:623.

⁴⁸⁷ Ibid., 2:620.

⁴⁸⁸ Ibid., 2:621.

⁴⁸⁹ Ibid., 2:645.

⁴⁹⁰ Ibid.

the strong”.⁴⁹¹ Sovereign states should “take care not to multiply the instruments of might, when we imagine we are protecting ourselves against them, by taking shelter under the aegis of pacificatory institutions” because “[p]eace in servitude would be degrading”.⁴⁹² Barbosa rejected the argument that the composition of the court should reflect the “material importance” of states because differences in “wealth and power” meant differences in the level of interest in the arbitral court:

Even supposing that such a difference really existed, the situation in that case, it seems to me, would call for new guarantees to be afforded the weak against the strong, rather than for the increase of the privileges of the strong against the weak. Very rarely do the small dare to encroach upon the rights of the great. On the contrary, it is quite natural that the pride of the great should tend to disregard the right of the small.⁴⁹³

Alongside the fear about the consequences the court would have for power relations between states, Barbosa also questioned its implications for the international configuration of political authority. He made a distinction between two types of juridical body, jurisdictional and arbitral, which implied very different types of authority. Arbitration was the proper “form of justice of sovereignties”, but the proposed court, by taking away from states the choice of arbiters would transform the arbitral court into a jurisdictional authority.⁴⁹⁴ According to Barbosa:

[W]hen disputes arise between nations, the only available means for their settlement is through arbitration. The jurisdictional authority disappears. For jurisdiction presupposes a dependence of subjection, of obedience, such as that of the subjects of the same nationality with regard to the sovereignty governing them, and between States one can conceive only of the bond resulting from a free will which freely engages itself, that is to say, the contractual bond of obligations which they agree to impose upon themselves mutually.⁴⁹⁵

Jurisdictional authority, then, is inappropriate for international matters because it implies submission to a necessary authority, while the sovereign nature of states precludes obedience to anything other than a self-imposed obligation. “Arbitration”, for Barbosa, “has its source in liberty” and it rests on no authority higher than its “contractants”.⁴⁹⁶ This is why “the arbitral form is the only

⁴⁹¹ Ibid.

⁴⁹² Ibid., 2:647–8.

⁴⁹³ Ibid., 2:648.

⁴⁹⁴ Ibid., 2:148.

⁴⁹⁵ Ibid., 2:649.

⁴⁹⁶ Ibid., 2:661.

one applicable between...nations"; to substitute juridical authority for arbitration would be to "replace voluntary consent with constraint".⁴⁹⁷

To take away the right of states to appoint a judge of their choosing in any particular case of arbitration would be to take away "the very essence of arbitration", for "the appointment of judges for an international arbitration court constitutes and always has constituted a discretionary act, a non-transferable act of the sovereign Power".⁴⁹⁸ Denying states the freedom to choose judges meant "tossing overboard" arbitration, replacing it with a system "which signifies obedience of subjects to a necessary authority".⁴⁹⁹ For Barbosa, the taking away of free choice, and the submission to authority it implied, was "incompatible with the notion of sovereignty in international law".

The 'notion of sovereignty in international law', then, serves state freedom in two ways. First, it precludes the subjection of states to any higher authority and, second, it guards against the domination of powerful states. These two potential threats to state freedom are linked because any attempt to institute an international authority would necessitate the development of means to enforce the obligation that authority entails. "Repression", according to Barbosa, "would, therefore, have to be imposed", and this requirement for a repressive function would "naturally" fall "upon the strongest nation, or upon a concert of the strongest", resulting in "legalizing the domain of force".⁵⁰⁰

Barbosa's exposition on the fundamental right of states to equality and sovereignty, and its relationship to subjection and domination, was set up as an explicit counterpoint to the civilizational discourse of the Paternalistic Idea of state freedom. Barbosa did not challenge the idea of a developmental hierarchy between nations itself, though he did lambast the notion that the Latin American states should be placed low down in that hierarchy; he argued that they were "nations in the full exuberance of youth" and "in the full boom of a marvellously robust life".⁵⁰¹ More forcefully, however, he argued that any hierarchy between states was immaterial for the distribution of international rights. The Latin American states were "not tributary States", they were sovereign and, in that respect—the respect that mattered—were "equal of any other sovereign State".⁵⁰² Criticising

⁴⁹⁷ Ibid.

⁴⁹⁸ Ibid., 2:692.

⁴⁹⁹ Ibid.

⁵⁰⁰ Ibid., 2:662.

⁵⁰¹ Ibid., 2:646.

⁵⁰² Ibid.

the “calumny” of the “European daily press”, Barbosa scathingly quoted criticism of the arguments in favour of equality for jeopardising the creation of the court:

*From a juridical and diplomatic point of view the argument [for equal representation in the tribunal] is perfect, but, unfortunately there is no sense to their conclusion. No other illustration can be found to set into stronger relief the faulty composition of the Conference. Hence, in view of the fact that the great Powers are not at all disposed to put over them, as their judges, the most corrupt and the most backward States of Asia and South America, we shall not yet have the arbitral court.*⁵⁰³

Although the implications of strong notions of equality were resisted by the great powers, the principle nonetheless enjoyed currency throughout the conference. Outside the immediate diplomatic circles in The Hague, however, it was subject to strong criticism. *The Times* in the United Kingdom dismissed the equality of states as an “absurd fiction”. The great powers “will not, and can not, in any circumstances [allow small states] to have an equal right with themselves in laying down the law by which their fleets, their armies, their diplomatists, and their jurists are to be guided on matters of the supremest moment”. To give small states an equal right to representation on the court “would involve the subjugation of the higher civilization by the lower, and would inevitably condemn the more advanced peoples to moral and intellectual regression”.⁵⁰⁴

Inside the conference, however, Barbosa’s position garnered significant support. A large number of states voiced support for Barbosa’s arguments and rejected the proposed court composition on the grounds that it violated the principle of the equality of states. Barbosa’s arguments “effectively killed the big power proposal”;⁵⁰⁵ the pessimistic prediction of the European press proved accurate and because of the inability of the delegates to agree on the requirements of the equality of states, the creation of the PCAJ was deferred. In the vote on the resolution to defer the creation of the PCAJ, numerous states underlined their insistence that any court must be constituted in harmony with the principle of the equality of states.⁵⁰⁶

The inability of the Conference to make progress on the creation of the PCAJ was in contrast to its deliberations regarding an International Prize Court (IPC). An agreement on this court, proposed not for the purpose of arbitration but rather to hear cases relating to the capture at sea of goods and

⁵⁰³ Ibid., 2:149–50 original emphasis.

⁵⁰⁴ *The Times*, 19 October 1907, quoted in Klein, *Sovereign Equality among States*, 58–9.

⁵⁰⁵ Simpson, *Great Powers and Outlaw States*, 142.

⁵⁰⁶ Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 1:328.

vessels during war, was reached and a convention adopted.⁵⁰⁷ This agreement was reached despite the IPC also facing questions regarding the equality of states. The British proposal was to grant each state whose merchant marine was more than 800,000 tons at the time of the conference the right to designate one judge. The German delegation objected to this proposal on the grounds that it was unequal, and a compromise proposal was formed (by Britain, France, Germany and the US) which recommended a court of 15 judges. Eight of these 15 would be appointed by the states with the largest marine tonnage, value of maritime trade and naval forces, with the other nine appointed by the other states according to rota.⁵⁰⁸

Despite the addition of extra judges, the proposed constitution nonetheless seemed to be subject to the same deviations from sovereign equality as did the Permanent Court of Arbitral Justice; states would not enjoy equal representation of their own judges on the court, but rather be classified into groups, unequal with respect to the right of judges to sit, according to material differences. There was even a widespread recognition that the apportionment of judges left “much to be desired from the point of view of the principle of the equality of sovereign states”.⁵⁰⁹ How then, were the delegates able to reach an agreement on the IPC while the proposed PCAJ was rejected because of its incompatibility with sovereign equality?

The decisive factor for the delegates—so immovable with respect to the equality of rights in the composition of one court and ready to compromise it in another—was the relative competencies of the IPC and PCAJ. While the latter was to be a *general* court of arbitration, with competency to judge on a wide range of issues, the IPC was created for a narrow, specific purpose. As the Norwegian delegate put it, though they may have objected to the composition of the court, its purpose was “solely to safeguard a certain class of special interests”.⁵¹⁰ Hence, there is no violation of the “fundamental principle” of the equality of states given that consideration was given to the relative “importance of the interests” that were at stake.⁵¹¹ The “distinct”, or “special” nature of the court being instituted was a common theme among comments from the delegates,⁵¹² and it was much repeated that that project was “essentially different” from the arbitral court.⁵¹³

⁵⁰⁷ Although the Convention was never ratified by the individual states and thus never created.

⁵⁰⁸ Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:1061.

⁵⁰⁹ Ibid., 2:15.

⁵¹⁰ Ibid.

⁵¹¹ Ibid.

⁵¹² Ibid., 2:17.

⁵¹³ Ibid., 2:17,20.

A distinction was made, then, at the second Hague Peace Conference, between general interests and special interests. In the case of the PCAJ, the majority of states deemed general interests to be at stake, and a connection was made with the general right of sovereignty. The US delegation did attempt to make the argument that, because of their likelihood to be embroiled in conflict, some states had a special interest in the PCAJ, but this line of reasoning was rejected by the majority of states.⁵¹⁴ When it came to the IPC, however, it was largely accepted as legitimate that special interests were being invoked, and that these special interests justified special rights on the part of certain states.

The few scholars that analysed the Second Hague Peace Conference through the lens of the equality of states have tended to characterise the position taken by Barbosa—and the other states that followed his lead—as exhibiting an “extreme” version of sovereign equality,⁵¹⁵ based on which an “effective tribunal simply could not be created”.⁵¹⁶ However, the negotiations to institute the Prize Court suggest that Barbosa and the other ‘small states’ were not wholly intransigent with respect to the equality of state rights; where special interests were demonstrable, compromise was made. They were not willing to compromise equality, however, on an issue deemed to pertain to general, sovereign rights. Equal participation in international instruments of justice was not a first order principle, valuable in and of itself. Rather, equality was valued, and defended in The Hague, because it was understood as a necessary condition to prevent the domination of strong states over weaker states. It was when unequal participation was deemed to augment the power of strong states over the materially weak, and to damage the “fortress” of sovereignty within which states are their own masters, that absolute equality was demanded.

Special responsibilities and special rights: The San Francisco Conference

At The Hague in 1907, the majority of delegates were willing to sacrifice agreement on the Permanent Court of Arbitral Justice in order to avoid violating the principle of the equality of states; if agreement on proposals for a court in accordance with equality could not be reached, it was “better not to create it”.⁵¹⁷ In April 1945, when 50 Allied states came together in San Francisco to discuss the creation of what would become the United Nations, two wars of unprecedented

⁵¹⁴ Ibid., 2:610.

⁵¹⁵ Simpson, *Great Powers and Outlaw States*, 134.

⁵¹⁶ Klein, *Sovereign Equality among States*, 59.

⁵¹⁷ Ruy Barbosa, quoted in Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:621.

destructive impact within a generation had horrifically exposed the inadequacies of previous attempts to organise relations of control between states.⁵¹⁸ Both ideas of state freedom prominent in the early 20th century explored above and in Chapter Three—the Paternalistic and Categorical Ideas—were tainted by the world wars. The hierarchical discourse of civilisation that was a key element of the Paternalistic Idea of state freedom had been implicated in the aggressive expansionism of Nazi Germany that triggered the war. The strident equality asserted in The Hague and, to a lesser extent, instituted in the League of Nations was, meanwhile, seen as a factor in the failure to maintain peaceful international relations.

In this context, in San Francisco the delegates negotiated a compromise between equality and hierarchy which reconfigured international relations of authority. The debates which constituted this process evidenced an idea of state freedom distinguishable from both the Categorical and Paternalistic Ideas. In San Francisco, a normative goal of the self-mastery of states similar to that of the Categorical Idea was identifiable—that of states setting their own direction without the interference and domination of other states. However, the necessary conditions for the realisation of that self-mastery were transformed from a categorical rejection of all subjection and obedience, as they were in the Categorical Idea, to recognition of the need for liberty *under* law. For states to realise their self-mastery, international authority that contained elements of institutionalised hierarchy was needed. Unlike in the Paternalistic Idea, however, the consent and participation of small states was necessary to prevent self-mastery from being compromised. The notion of ‘liberty under law’ is reminiscent of liberal political theories in which ‘natural’ freedom, understood as the absence of subjection, is exchanged for ‘civil’ liberty in a consensual political community based on the rule of law. It is for this reason that I term the idea of state freedom negotiated at San Francisco the Civil Idea of state freedom.

The discussions at the United Nations Conference on International Organization (UNCIO) centred on a set of proposals presented by the ‘big four’ allied states—China, Great Britain, the Soviet Union and the US—drafted during a conference which took place at Dumbarton Oaks, Washington DC in 1944, participation in which was limited to the great powers. The so-called ‘Dumbarton Oaks proposals’ themselves built upon the Moscow Declaration issued by the four powers in 1943 which recognised the “necessity of establishing at the earliest practicable date a general international organization [the United Nations], based on the principle of the sovereign equality of all peace-

⁵¹⁸ Following the Hague Conferences, the most ambitious attempt to reconfigure inter-state relations of control took place at Versailles following World War I. This peace settlement will be examined through the lens of self-determination in Chapter Five.

loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security”.⁵¹⁹ It was through debates about the notion of sovereign equality, which had an ambiguous position within the proposals for a general international organisation, that the Civil Idea of state freedom was articulated, and it is on those debates that I focus in this section.

The idea that the organisation should be based on a principle of equality between states is striking and seems to have originated in a meeting between US President Franklin D Roosevelt and a number of officials which took place in August 1943,⁵²⁰ with the phrase ‘sovereign equality’⁵²¹ itself is likely to have been suggested by Under Secretary of State Sumner Welles.⁵²² The idea of the equality of states was, therefore, clearly in the minds of the major allied powers with respect to questions of post-war order. However, there was also a strong current of great power decision-making running through the discussions between, principally, Roosevelt, Winston Churchill and Josef Stalin that took place towards the end of the war which suggested little or no regard for the equal rights of weaker states. Even at the San Francisco conference itself, the language of great and small powers was pervasive, intermingling with assertions of equality.⁵²³ At the conference—which was wide ranging in the scope of issues addressed—there were two areas of debate where discussion of sovereign equality was particularly prominent; discussions of what the underlying principle or principles of the organisation should be, and discussions about the membership and powers of the proposed Security Council. In the end, a charter was agreed upon to create a general international organisation that has as its basic principle the “sovereign equality of all its Members”.⁵²⁴ At the same time, however, the Charter also establishes a Security Council that clearly affords its five permanent members (the four major allied powers plus France) rights that surpass those of the other member states. In the remainder of this section, I will show that the delegates were able to endorse both of these, apparently contradictory, elements of the Dumbarton Oaks proposals because both were consistent with the normative goal of the self-mastery of states as part of the Civil Idea of state freedom. In order to demonstrate that, I first lay out what was understood by sovereign equality in San Francisco, showing that it was understood in a broad sense which amounted to a rejection of the domination of one state over another. Second, I show how that principle was implicated in the debate about legitimate relations of control between states prompted by the proposed rights of the

⁵¹⁹ United States et al., ‘Moscow Declaration’.

⁵²⁰ Klein, *Sovereign Equality among States*, 111.

⁵²¹ Which was first used by the Guatemalan delegation at the 1907 Hague Peace Conference (see, *Ibid.*, 58.)

⁵²² *Ibid.*, 110.

⁵²³ One Colombian delegate remarked: “It almost seems as though none of us has used the word ‘nations’ without explaining that there are large, middle-sized, and small nations” (United Nations, *Documents of the UNCIO*, 1945, 1:360.)

⁵²⁴ United Nations, ‘Charter of the United Nations’, chap. 1 Article 2 (1).

permanent members of the Security Council. That debate ultimately resulted in the compromise of both the Categorical and Paternalistic Ideas of state freedom and the institutionalisation of the Civil Idea.

As we have seen, at the 1907 Hague Peace Conference, Ruy Barbosa conceptually linked the two principles of sovereignty and equality even if he did not use the compound phrase and, at the same conference, the explicit coupling was used by the Guatemalan delegation.⁵²⁵ The US Under Secretary of State Sumner Welles had also used the phrase “sovereign equality of peoples” in a speech in 1942,⁵²⁶ but not all the delegates in San Francisco were satisfied with this formulation, suggesting it obscured other important terms such as juridical equality and state personality.⁵²⁷ The Peruvian delegate in San Francisco, Victor Andres Belaunde, was one of those that took issue with the phrase, claiming it has “no technical or scientific meaning”. In his criticism of the terminology, Belaunde introduced a number of conceptual themes that ran through much of the discussion on state equality at the conference. Belaunde’s dissatisfaction with the term, aside from its ‘unscientific’ nature, was that using it meant “putting aside” other important concepts. Chief among them was the “idea of personality”, which he presented in the following way:

International order is based on the personality of the states as the juridical order is based on the personality of the man. States ought to be respected, not only because they are sovereign and have territory. The elements that ought to be respected in states are not only the political elements embodied in the physical state, and the material element, that is the territory. The states are a living synthesis of moral values which assume other elements, and the elements of the state most worthy of respect are its cultural values, which are the essence of personality.

Every country has a personality, and this personality ought to be respected. Because a country is a personality, it is sovereign and has the right to juridical equality and has a right to territory.⁵²⁸

Echoing Vattel, then, the conceptual starting point for Belaunde’s position is that a state constitutes a kind of ‘moral person’, and the chief right that “small countries” ask for in international society is “respect for their moral personalities”.⁵²⁹ It is this view of the state as a normatively valuable, ethical

⁵²⁵ Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:159.

⁵²⁶ Klein, *Sovereign Equality among States*, 112.

⁵²⁷ Votes were taken in Committee I/1 of the conference as to the inclusion of these phrases in place of sovereign equality, but the proposed changes were not passed. See, United Nations, *Documents of the UNCIO*, 1945, 6:203, 483.

⁵²⁸ *Ibid.*, 6:67.

⁵²⁹ *Ibid.*, 6:67–68.

entity which generates both the right to juridical equality and a thick understanding of the obligation of non-intervention that takes the form of ‘respecting’ the material, territorial and also moral aspects of other states. Supporting this approach to state equality is the familiar analogy to the individual in domestic society.

Although the Peruvian objection to the terminology of ‘sovereign equality’ was rejected, the ideas behind it were not. During the course of the discussions in Committee I/1 of the conference, the representatives debated the meaning of the new term and established that the phrase “sovereign equality” incorporated four ideas: “(1) that states are juridically equal; (2) that each state enjoys the right inherent in full sovereignty; (3) that the personality of the state is respected, as well as its territorial integrity and political independence; (4) that the state should, under international order, comply faithfully with its international duties and obligations”.⁵³⁰ Considering each of those four elements in turn allows us to establish the shared understanding at the conference of the phrase ‘sovereign equality’.

The first element of sovereign equality highlighted by the committee—the juridical equality of states—was a much heard phrase at the San Francisco conference, generally being used to refer to the international legal doctrine of the equality of states. The Ecuadorian understanding was typical, which saw juridical equality as “an expression of [all sovereign states’] identical significance before the common law which governs their reciprocal relations and as means for correcting and repairing any practical or political inequality which be interposed between them”.⁵³¹ Juridical equality, then, referred to the idea of equality before the law, understood as a corrective against the manifest material inequalities between states. This was a commonly held position in the first half of the 20th century, and one that, as I have shown in the previous section, was linked to resistance to the domination of powerful states.

Although international lawyers have often understood equality before the law to constitute the entirety of the international legal doctrine of the equality of states, Committee I/1 determined sovereign equality to be a substantially more expansive concept. I will return below to the second constituent element of sovereign equality agreed upon at San Francisco—that each state enjoys the right inherent in full sovereignty. First I will consider the third element, that the personality, territorial integrity and political independence of the state are respected. Although equality before the law suggests that states are commensurate as legal subjects, as we have seen through the

⁵³⁰ Ibid., 6:70, 398.

⁵³¹ Ibid., 6:561.

suggestions of the Peruvian delegation, “personality” was understood in the Committee in a more substantial way than the mere legal personality implied in the juridical equality of states. In this context, personality rather implies an essential similarity in states by virtue of their representing an ontological moral order. In this characteristic of states—their moral essence—there can be no hierarchy.

The idea that states are equal by virtue of their moral worth was not confined to the discussions of Committee I/1 at San Francisco, with other ‘smaller states’ also asserting their value to the United Nations by virtue of their “moral contribution” despite their lack of consequence “militarily and politically”.⁵³² ‘Small states’ also explicitly framed the problem of international organisation in moral terms,⁵³³ which, when paired with assertions of the “moral force” of small nations, “invisible but formidable”,⁵³⁴ implicitly asserted a right to be equal partners with militarily powerful states in shaping global order. Ideas about the commensurate moral worth and personality of states both small and large thus transformed sovereign equality from a legal, technical principle into one that also incorporates significant ethical dimensions. In this way, sovereign equality—as the first principle of the United Nations—was linked with the ethical nature of world order to be constructed more generally; small nations repeatedly asserted that for peace to be lasting, a just and equitable peace which did not exclude the materially impotent was needed.⁵³⁵ This reasoning inverts the traditional reasoning of international lawyers—also expressed by the US delegation at the 1907 Hague Conference—that the principle of equality of states was incompatible with effective management of international affairs. It also inverts the logic of the Paternalistic Idea of state freedom which justifies interference in the affairs of small states by virtue of the moral pre-eminence of the great powers. This assertion by small states of their moral worth is a key element of the Civil Idea of state freedom and I will return to it below.

The third element of sovereign equality established by the Committee also links the personality of states with respect for their “territorial integrity and political independence”. This link suggests the inviolability of the state and connects sovereign equality with the principle of non-intervention. The delegates chose to connect the idea of equality with the broader idea of freedom from inter-state interference, imbuing equality with a deeper meaning than absence of rank. By agreeing on an understanding of sovereign equality that enshrined both juridical equality and mutual respect,

⁵³² United Nations, *Documents of the UNCIO*, 1945, 1:252.

⁵³³ *Ibid.*, 1:513, 554.

⁵³⁴ *Ibid.*, 1:550.

⁵³⁵ *Ibid.*, 1:241, 301, 369, 554; United Nations, *Documents of the UNCIO*, 1945, 6:318.

delegates delegitimised predation and domination by other states. Independence and territorial integrity in effect constitute a minimal right of states to exist as self-determining entities, a right that at San Francisco was seen as deriving from a state's moral personality.

The fourth element of sovereign equality agreed upon at the Conference—that a state “should, under international order, comply faithfully with its international duties and obligations”—is another example of the broad understanding of sovereign equality reached in San Francisco. At first blush this element seems to have little connection to an intuitive understanding of equality. Obligations and duties are, however, most often considered to be the conceptual corollary of rights, and historically the equality of rights and duties has often been argued to constitute the doctrine of the equality of states. The fourth element agreed upon at the Conference, then, reminds us that states are all equally subject to international duties, even if it does not necessarily suggest that all states are subject to equal duties. Principally, this element makes it clear that the freedom of action of states is, or at least should, be limited in international order.

When considered alongside the second element of sovereign equality—“that each state enjoys the right inherent in full sovereignty”—the emphasis on duties and obligations shows that the idea of sovereign equality negotiated in San Francisco aims to preserve the independence of states by *subjecting* them to a higher authority. In 1907 Ruy Barbosa had argued against the proposed composition of the Permanent Court of Arbitral Justice on the ground that taking away the free choice of arbiters from states signified “obedience of states to necessary authority”, a situation which was “incompatible with the notion of sovereignty”.⁵³⁶ In 1945, however, it was held:

That the sovereign nations of the world must recognize that above their national sovereignty is the sovereignty of the law, and must, therefore, abide by international law and submit their disputes to the mandates of international law as interpreted and applied by a competent court of obligatory jurisdiction.⁵³⁷

The principle of sovereign equality—which Barbosa had so ardently fought to preserve against both hierarchy and jurisdictional justice—had come to encompass the idea that states had to “delegate a part of [their] sovereignty” and “accept the concept of liberty under law”.⁵³⁸

⁵³⁶ Scott, *The Proceedings of the Hague Peace Conferences*, 1921, 2:692.

⁵³⁷ Delegation of Panama in United Nations, *Documents of the UNCIO*, 1945, 1:560.

⁵³⁸ *Ibid.*, 1:130.

The fact that all states enjoy the rights inherent in sovereignty (and are, in this sense, possessing of equal rights), does not necessarily imply, however, that sovereign rights encompass all the rights of states in the international system. The second element of sovereign equality agreed upon at San Francisco suggests a system of general rights, equally held by all states. However, also pervasive at the Conference was the language of *special* rights and, concomitantly, special duties. The area of debate where such language was most prevalent was in discussions about the element of the Dumbarton Oaks proposals most obviously in tension with the equality of states; the composition and powers of the Security Council. The proposal put forward by the four sponsoring powers was that the primary responsibility for the maintenance of international peace and security would fall on a council of 11 members, five permanent (the four sponsoring powers plus France) and six rotating (nominated by the General Assembly). The wide ranging powers of the Security Council to define threats to international peace and security, and to establish measures against them, clearly formalise a differentiation in rights between members and non-members. Moreover, even within the council, two tiers of rights are created; permanent members have an effective veto on all non-procedural matters given that unanimous agreement between them is required, while non-permanent members are denied this privilege.

The implications for the equality of states of this arrangement for dealing with questions of peace and security were not lost on delegates, and the principle was repeatedly raised in the context of debate about this issue. Nonetheless, there was a very broad acceptance that the five permanent members would, and should, have special rights denied to all other states. Although claims were made that the proposed composition of the Security Council was in contradiction with sovereign equality,⁵³⁹ the consensus among delegates was either that, despite the proposals, juridical equality was maintained,⁵⁴⁰ or that a compromise on strict equality was needed to ensure peace and security and that special rights could be afforded to certain states without making sovereign equality meaningless.⁵⁴¹ There were two main rationales given by states as to why special privileges ought to be afforded the five permanent members, one backward looking and one forward looking, but both ultimately related to their military capacity. The first was the role that those powers had played (and, at the time of the conference, were still playing) in defeating the axis powers in World War II. It was they who had made the greatest “sacrifice” on behalf of other states,⁵⁴² they who had “borne

⁵³⁹ United Nations, *Documents of the UNCIO*, 1945, 6:310, 322.

⁵⁴⁰ United Nations, *Documents of the UNCIO*, 1945, 1:562.

⁵⁴¹ *Ibid.*

⁵⁴² *Ibid.*, 1:187, 516.

the heaviest load of the war”,⁵⁴³ and they who had “brought the German giant to its knees”.⁵⁴⁴ In part, this justified the “rather exclusive” nature of the powers of those states in the future world order,⁵⁴⁵ but these powers were not deemed legitimate merely as a reward for past services. The second, and most prominent, reason given for states’ acceptance of these special rights was the special *responsibility* that the permanent five members of the Security Council would continue to bear for preserving international peace and security.⁵⁴⁶ The basic logic of this position was that it is proper for rights to be commensurate with responsibilities, hence “the Great Powers, because they have greater international responsibility, must likewise exert a greater functional influence in the organization of the world”.⁵⁴⁷

Underpinning this basic argument that rights ought to be commensurate with responsibility were deeper ideas about state freedom that both legitimated the special privileges of the great powers and prescribed how those privileges should be nested within a broader configuration of inter-state relations of control. The fundamental problem posed by the question of the membership and privileges of the Security Council was how to “reconcile...two primary needs: that of safeguarding, not only in theory but also in practice, the juridical equality of the Member-States, with that of enabling the International Organization to employ efficaciously preventative measures and sanctions to guarantee collective security”?⁵⁴⁸

The need for an effective mechanism of security preservation was emphasised by states both materially strong and weak. The underlying rationale behind this goal was the need to protect states from aggression that would threaten their independence and their capacity to be self-directing and controlling. The British Foreign Secretary Anthony Eden, for example, asserted that the big powers did not wish to “dictate to the rest of the world” the shape of international organisation, but to “provide us with that security which is today mankind’s greatest need”.⁵⁴⁹ Security, he went on, was “not itself a final end” but was “indispensable if we are to make true freedom possible; not otherwise can we hope to realize a world in which justice for nations as well as for individuals can

⁵⁴³ Ibid., 1:301.

⁵⁴⁴ Ibid., 1:503.

⁵⁴⁵ Ibid.

⁵⁴⁶ Simpson also notes the importance of the language of special responsibility at the San Francisco conference (Simpson, *Great Powers and Outlaw States*, 170.) For a treatment of the role of special responsibilities in world politics more generally see Bukovansky et al., *Special Responsibilities*.

⁵⁴⁷ Columbia wanted this rationale explicitly expressed in the Charter pre-ambles United Nations, *Documents of the UNCIO*, 1945, 6:528.

⁵⁴⁸ Mexican delegation in United Nations, *Documents of the UNCIO*, 1945, 3:104.

⁵⁴⁹ United Nations, *Documents of the UNCIO*, 1945, 1:138.

prevail”.⁵⁵⁰ The challenge for the delegations in San Francisco was to “find some means of ordering our relations with justice and fair-dealing, while allowing nations great and small full opportunity to develop their free and independent life—either we must do that—or we shall soon head for another world conflict which this time must bring utter destruction of civilization in its trail”.⁵⁵¹

The basic notion that security is necessary to prevent the aggressive domination of one state over another chimes with the Categorical Idea of state freedom and echoes the arguments reconstructed in Chapter Three that non-intervention is necessary for the realisation of self-mastery. Indeed, the understanding of sovereign equality agreed upon in San Francisco encompassed a right to non-intervention through the demand that “the personality of the state is respected, as well as its territorial integrity and political independence”.⁵⁵² As the Uruguayan delegation argued, “the concept of equality imposes necessarily the nonintervention principle”, which should be limited only by the requirement that the “freedom of a state may not reach at any time a point which is incompatible with the rights and the pacific relations of the others”.⁵⁵³ While in the International Conferences of American States, the focus had been on the codification of an absolute right to non-intervention, in San Francisco it was held that “collective intervention” was necessary for the right to non-intervention to be meaningful.⁵⁵⁴

The proposed hierarchical institutionalisation of the mechanism of collective intervention was in contradiction with the absolute equality of rights demanded by the Categorical Idea, and despite the arguments made about special responsibilities, the suspicion remained that small states would never enjoy ‘free and independent lives’ if differences in material power between states were enshrined in international institutions. The delegation of the Netherlands was regretful that the “special status” of the large powers would be “officially recognized and sanctioned” and, in terms reminiscent of Ruy Barbosa’s forceful arguments, lamented an institutional design which “legalizes the mastery of might which in international relations, when peace has prevailed, has been universally deemed to be reprehensible”.⁵⁵⁵ The need for effective collective security to prevent aggressive domination was such, however, that the Netherlands were willing to “acquiesce” to the arrangement and “accept certain limitations of this freedom of action which hitherto belonged to all sovereign states”.⁵⁵⁶ This ambivalent attitude toward the special rights of the big powers was encapsulated in a “favourite

⁵⁵⁰ Ibid.

⁵⁵¹ Ibid.

⁵⁵² United Nations, *Documents of the UNCIO*, 1945, 6:70.

⁵⁵³ United Nations, *Documents of the UNCIO*, 1945, 1:304.

⁵⁵⁴ Ibid., 1:305.

⁵⁵⁵ United Nations, *Documents of the UNCIO*, 1945, 11:164.

⁵⁵⁶ Ibid.

phrase”⁵⁵⁷ of the Australian Foreign Minister HV Evatt (a champion of the small and middle powers’ attempts to amend the Dumbarton Oaks proposals) who stated: “leadership is acceptable; domination is intolerable”.⁵⁵⁸

At the second Hague Peace Conference no solution was found to reconcile a hierarchy of rights with the freedom of states; transforming ‘might into right’ would necessarily mean the domination of powerful states over the small. In San Francisco, on the other hand, it was widely held—albeit often reluctantly—among the delegates that creating an effective collective security mechanism required a special role for the great powers. That does not mean that the self-mastery of states was set aside as a normative goal. The emphasis placed on *responsibility* of great powers shows that preventing the domination of the materially powerful states was crucial to the delegates of smaller states. Although the trust that the permanent members of the Security Council would exercise their special powers for the common good was an important factor in gaining agreement on the creation of the United Nations, small and middle powers were not content to rely purely on faith. Crucial to the acceptance of the small states of the great powers’ special rights was a belief that they nonetheless had a meaningful role in both the creation and the operation of what would become the United Nations. Ian Hurd has shown that “procedural correctness” was a powerful tool in establishing the legitimacy of the veto power of the permanent members of the Security Council.⁵⁵⁹ According to Hurd, the “small states valued the deliberation afforded by the procedures of the conference and accepted the veto only once all avenues to oppose it were exhausted”.⁵⁶⁰ Hurd’s argument about the legitimating power of discussion and debate is a powerful explanation for why so many states changed their position from one of opposition to the veto to acceptance despite the lack of concrete concessions on the part of the big four states.⁵⁶¹ This discursive legitimization of the veto is also evidence of the Civil Idea of state freedom which played a broader role in the politics of legitimacy surrounding the Dumbarton Oaks proposals.

At the San Francisco conference there was a general characterisation of the fight against the axis powers as a fight for freedom.⁵⁶² This freedom was associated with democracy and contrasted with the imperial aggression of the “totalitarian” states.⁵⁶³ The language of freedom and democracy in a

⁵⁵⁷ Hurd, *After Anarchy*, 94.

⁵⁵⁸ Quoted in *ibid.*

⁵⁵⁹ *Ibid.*, 84, and generally Chapter 4.

⁵⁶⁰ *Ibid.*, 84.

⁵⁶¹ For a broader argument about the importance of multilateralism for norms of procedural justice, see Reus-Smit, *The Moral Purpose of the State*, chap. 6.

⁵⁶² See, for example, United Nations, *Documents of the UNCIO*, 1945, 1:240, 242–3, 297, 513, 567.

⁵⁶³ *Ibid.*, 1:561.

fight against the domination of aggressive states was prominent in the speeches of the major powers. The Soviet Minister of Foreign Affairs Vyacheslav Molotov, for example, characterised the war as one in which “the democratic nations rallied against an imperial power...which considered itself master of Europe and which intended to impose its will”.⁵⁶⁴ However, smaller states also extended the association between democracy and the allied struggle beyond domestic political arrangements and to the workings of the proposed international organisation. The equal importance of small states and their democratic participation in its creation and operation were, it was argued, necessary to sustain peace and prevent the domination of one state over another. Though small states were weak militarily, they played an essential role in promoting justice and preventing the supremacy of the great powers.

The arguments made by the Mexican delegation are exemplary in this regard. Mexico reversed the civilisational logic of the Paternalistic Idea of state freedom, arguing that rather than the small states needing the interference of great powers in order for them to act responsibly, the engagement of small states was essential to keep the great powers in check. Mexico’s delegate Luis Padilla Nervo argued:

We are frequently reminded to be realistic but what greater and more undeniable reality than the fact that small nations do exist free from the lust for power and conquest. They represent the highest aspirations toward justice. They are the builders of the fortress of law. That is why we, the small nations, are here—not by reason of a military strength which we do not possess nor by virtue of a contribution that could be powerful in guaranteeing peace, but because of our honest yearning for cordial friendship and our sincere love for peace. We want security not only for ourselves—for us who possess no elements to threaten it—but security for the great powers who can more readily be tempted by the sinister advice of ambition and force.⁵⁶⁵

After having made the link between great power and avarice, Padilla went on to explicitly call for the international organisation to be based on “democratic principles”. “Democracy”, he argued, “safeguards the brotherhood of all men. Should the great powers wish to be alone in authority they would also remain alone in their struggle for supremacy”.⁵⁶⁶ If the potential drive for supremacy of the great powers was not checked by the involvement of small powers in international authority, all that an international organisation could establish would “be a return to permanent insecurity”.⁵⁶⁷

⁵⁶⁴ Ibid., 1:134.

⁵⁶⁵ Ibid., 1:551.

⁵⁶⁶ Ibid.

⁵⁶⁷ Ibid.

The association made between the democratic participation of small states and resistance to inter-state domination is what animated contestation in San Francisco as to the legitimate contours of the great powers' special rights. Though willing to concede special rights to the five permanent members of the Security Council, numerous states nonetheless argued for an expansion of the range of *general* rights—that is to say rights possessed by all states—relating to peace and security enshrined in the United Nations. While accepting Security Council primacy, several states nonetheless made claims for expanded General Assembly powers to accompany them.⁵⁶⁸ Others made the claim that even if all states could not have a vote on the Security Council, they should all be granted a voice.⁵⁶⁹ Others argued for an increase in the numbers of non-permanent members.⁵⁷⁰ The principle line of contestation, however, was related to the veto power of the five permanent members. The Security Council was granted, it was claimed, “excessive authority” and the veto could not be claimed a “sound basis for the building of a lasting world organization”.⁵⁷¹ If the veto was accepted, it was argued, “there would be disregarded thereby the principle of the juridical equality of member states, reducing those which obtain non-permanent seats to a sad and decorative function within the Council”.⁵⁷²

Other delegates argued for changes to the scope of the veto power to restrict its use, but the Great Powers made it clear that challenging the veto power meant abandoning the creation of an international organization.⁵⁷³ Given that the creation of a collective security mechanism backed-up by the military power of the large states had become understood as a necessary condition for the realisation of the self-mastery of states, small states had a powerful incentive to concede to the big four. Ultimately, despite their arguments, and despite minimal concessions on the part of the sponsoring powers, the participatory process that all states engaged in during the conference was enough to convince them that the proposed international organisation was not an illegitimate institutionalisation of might into right.⁵⁷⁴

The hierarchical and democratic elements of the agreements reached in San Francisco were both ultimately necessary conditions for the realisation of the self-mastery of states. That is not to say that there was no tension between these two necessary conditions. However, the states

⁵⁶⁸ Ibid., 1:105, 452.

⁵⁶⁹ Ibid., 1:509; United Nations, *Documents of the UNCIO*, 1945, 3:28.

⁵⁷⁰ United Nations, *Documents of the UNCIO*, 1945, 1:446.

⁵⁷¹ Ibid., 1:509-510.

⁵⁷² United Nations, *Documents of the UNCIO*, 1945, 3:408.

⁵⁷³ Simpson, *Great Powers and Outlaw States*, 179–181.

⁵⁷⁴ Hurd, *After Anarchy*, chap. 4.

representatives in San Francisco were able to reach a balance that satisfied both. This compromise is encapsulated in the arguments made by the Panamanian delegation. Panamanian Minister of Foreign Affairs Roberto Jimenez noted that “small nations and the large, the weak and the powerful” had “all been invited as equals to deliberate side by side and to express their own viewpoints in a truly democratic manner”.⁵⁷⁵ This inclusive, participatory approach was “precisely one of the characteristics that distinguish[ed] the democratic nations from the totalitarian, whose only guidance [was] their own selfish interest and ambition”.⁵⁷⁶ Jimenez recognised that the “responsibility in the maintenance of peace increased proportionally to the size, the population, and the military force of the great nations”.⁵⁷⁷ At the same time, however, the “wholehearted cooperation of the small nations” was “essential to the satisfactory functioning of the World Organization” and that they must be “protected from aggression from any source whatsoever”.⁵⁷⁸ Possessing as they did the greatest military force, the large states had a “supreme responsibility in seeing that no new conflagration” was “precipitated by their own direct action or by the action of a smaller power backed by any of them”.⁵⁷⁹ At the same time:

No nation is big enough or powerful enough to stand against the rest of the world. No group of nations can claim exclusive possession of all wisdom in the settlement or conduct of international affairs. All nations—large and small, weak and strong—have a stake in the maintenance of universal peace and all should cooperate as equals in making justice the sole, the supreme, the indestructible basis of peace.⁵⁸⁰

The agreement reached at San Francisco affirmed the importance of the equality of states at the same time as granting “greater powers” and “greater privileges” to larger states on the grounds that “the responsibility in the maintenance of peace increases proportionally to the size, the population and the military force of the great nations”.⁵⁸¹ The potential threat to small states’ ‘free and independent lives’ posed by institutionalised hierarchy was recognised by the delegates. However, it was understood that, if counter-balanced by the participation of smaller states, this “legalised hegemony”, as Gerry Simpson has termed it,⁵⁸² could guarantee, rather than compromise, the sovereign equality and freedom of all states.

⁵⁷⁵ United Nations, *Documents of the UNCIO*, 1945, 1:561.

⁵⁷⁶ *Ibid.*

⁵⁷⁷ *Ibid.*, 1:562.

⁵⁷⁸ *Ibid.*

⁵⁷⁹ *Ibid.*

⁵⁸⁰ *Ibid.*

⁵⁸¹ *Ibid.*

⁵⁸² Simpson, *Great Powers and Outlaw States*, chap. 6.

Conclusion

In this chapter I have explored ideas of state freedom through the lens of the idea of sovereign equality. I began by analysing Emmerich de Vattel's classic exposition of the equality of states, showing that it was intertwined with a theory of the freedom of states. In what I called the Natural Idea of state freedom, states were understood as moral persons that possessed "understanding, volition, and strength".⁵⁸³ In other words, states were agents with the capacity to both will and to act upon that will. The freedom that characterised the natural condition of statehood for Vattel was the freedom to follow that will; to follow the "dictates" of one's own "conscience".⁵⁸⁴ The necessary conditions for the realisation of that freedom was that states should be completely independent, subject to no higher authority and free to follow its own reason of state.⁵⁸⁵

As the 18th and 19th centuries progressed the terminology of state freedom was replaced by that of sovereignty, through which endured the idea that by their very statehood states possessed a right to be self-directing and self-determining, as well as a right to equality. It was in these terms that the equality of states was hotly contested at the second Hague Peace Conference. In the second section I reconstructed the arguments made by Ruy Barbosa, which were another instantiation of the Categorical Idea of state freedom introduced in Chapter Three. Like Vattel, Barbosa made an analogy between human individuals and states, asserting them as sovereign, right-bearing entities that ought to be free to determine their own existence. The idea of self-mastery exhibited by Barbosa entailed both an absence of the domination of strong states and the absence of subjection to higher authority. The necessary condition for the realisation of this Categorical Idea of state freedom was absolute equality in relations of control between states. Any deviation from this principle would lead to the domination of strong states over weak and was characterised as the legalisation of 'might over right'. The structuring effect of this idea of state freedom was the rejection by the materially weaker states at the Hague Peace Conference of any attempt to create an instrument of international dispute settlement that deviated from strict arbitral justice.

At the United Nations Conference on International Organization, states exhibited a shift beyond the incompatible Categorical and Paternalistic Ideas of state freedom. In the third section of the chapter

⁵⁸³ Vattel, *The Law of Nations*, 73.

⁵⁸⁴ *Ibid.*, 75.

⁵⁸⁵ On the importance of reason of state to Vattel, see Devetak, 'Law of Nations as Reason of State'.

I argued that a Civil Idea of state freedom can be identified within the negotiations that states engaged in regarding the creation of the United Nations. In the debates surrounding the principle of sovereign equality in San Francisco, the state was once again understood as a moral person with the capacity to set its own direction. The sovereign equality of states was understood in terms broader than the absence of rank, but rather as respect for this self-directing capacity of the state, free from outside domination and interference. In contrast to the Categorical Idea of freedom, however, in the Civil Idea it was recognised that some *subjection* to higher authority was necessary in order for this self-mastery to be realised.⁵⁸⁶ Moreover, inverting the logic of the Categorical Idea of state freedom, it was conceded that without the enforcement powers of materially strong states, the rights of sovereign states would be meaningless. While conceding the necessity for some hierarchy, small states in San Francisco also recognised the threat posed to self-mastery by the power and authority of the great powers. Another necessary condition for the realisation of self-mastery was, therefore, the democratic participation of all states in the workings of the authority to which they were subject. As a result, the Civil Idea of state freedom legitimated relations of control between states that contained a limited degree of institutionalised hierarchy between states in security provision, provided that this hierarchy was counter-balanced by democratic and egalitarian processes. The structuring effects of this synthetic idea of state freedom—which contained elements of both the Paternalistic and Categorical ideas—can be seen in both the institutional design of the United Nations and the process by which it was created. The basic architecture of the United Nations was designed by the big four powers, and an organisation without their agreement was seen by all states as impotent. However, the input and deliberation of all the allied nations was crucial for imbuing the organisation with legitimacy in eyes of small states. Likewise the special powers granted to the permanent members of the Security Council are expressions of the Civil Idea of state freedom's recognition of the exceptional role played by the great powers in providing for collective security. At the same time, however, these powers are limited in scope and were legitimised only on the basis that they were the expression not of privilege but of a special responsibility for preserving the self-mastery of all states.

The delegates in San Francisco were able to agree on an institutional design that adequately met the needs of a compromise idea of state freedom that synthesised elements of both the Paternalistic Idea and the Categorical Idea. That is not to say, however, that the Civil Idea of state freedom completely transcended either idea. The conception of self-mastery as the capacity to control one's own destiny without the domination of others passed into the Civil Idea. More insidiously, the ideas

⁵⁸⁶ In this way, the Civil Idea reverses the logic of the Self-Help Idea of state freedom, in which collective security is seen as a violation of the freedom of states.

of racial and civilisational supremacy that undergirded the Paternalistic Idea were only challenged by the Civil Idea with respect to relations between pre-existing sovereign states. The extreme hierarchy between states and dependent *peoples* justified in terms of guardianship or tutelage were left unchallenged by the Civil Idea. Relations of dependency endured in the UN system in the form of Trusteeship and Non-Self-Governing Territories. Chapter Five explores relations of dependency through the lens of self-determination and shows that it would not be long before the remnants of the Paternalistic Idea in the UN system would face acute challenge from anti-colonial states advocating the further evolution of ideas of state freedom.

Chapter Five

Self-Determination

Introduction

Chapter Three explored relations of control between states primarily through relations of domination; in it I analysed debates about non-intervention in order to examine how ideas of state freedom are implicated in contentious assertions of control between states. Examining the Concert of Europe, I showed how different ideas about what kind of agent the state was and what constituted self-mastery for that agent—the Dynastic and Self-Help Ideas—informed different ideas about how to manage European affairs. While these ideas made the Concert system possible, I argued that the Self-Help Idea also limited the scope of legitimate great power cooperation and ultimately wrought a separation between Great Britain and the Holy Alliance. Turning my focus to the Americas in the early 20th century, I then showed how a Categorical Idea of state freedom underpinned the arguments of Latin American states against the practice of non-intervention and contributed to a change in the social identity of the US from a hemispheric ‘policeman’ to ‘good neighbour’.

In Chapter Four I analysed debates about sovereign equality in order to examine the role played by ideas of state freedom in structuring relations of authority in international relations. I showed how the Categorical Idea of state freedom precluded any inequality in the rights and duties of states that was deemed to facilitate relations of domination between states. I then showed how, in the negotiations surrounding the creation of the United Nations, states displayed a Civil Idea of state freedom. This idea of freedom legitimated a limited degree of legalised hierarchy in the international system provided that asymmetry was checked by the democratic participation of all states in creating liberty under law.

In this chapter I explore a third aspect of relations of control in the international system; relations of *dependence*, which is to say, hierarchical relations of control that deny one political community formal independence. The increasing prominence of the Categorical and then Civil Ideas of state freedom challenged the notion of a civilisational hierarchy between states that was central to the Paternalistic Idea. The efforts of materially weaker states in the International Conferences of American States, the second Hague Peace Conference and the San Francisco Conference contributed

to delegitimising relations of domination between existing sovereign states by asserting their equal rights and moral worth. The Categorical and Civil Ideas did not, however, comprehensively challenge the civilisational ideas embedded in the Paternalistic Idea of state freedom. They left unchallenged the notion of a hierarchy of *peoples* occupying different stages of civilisational development and thus possessing different levels of capacity for self-government. Even the absolute rejection of inter-state inequality and interference of the Categorical Idea did not challenge the extreme relations of domination and subjugation inherent in the institution of empire.

Through the lens of self-determination, I analyse the process of contesting and reconfiguring the relations of dependence that were bound up with colonialism. Intuitively, there is a conceptual affinity between self-determination and the freedom of political communities; as Article 1 of the two International Covenants on Human Rights state, the right of self-determination means that peoples “freely determine their political status and freely pursue their economic, social and cultural development”.⁵⁸⁷ However, self-determination is a term that has had a deeply contested history with respect to its meaning and its applicability. The politics of legitimacy that has accompanied debates about self-determination reveals an evolving relationship between that concept and ideas of state freedom, both prevailing and nascent.

I examine the dynamic relationship between self-determination and state freedom by analysing two historical moments of debate. The first is the ‘Wilsonian moment’⁵⁸⁸ of post-World War I reconstruction. I analyse the rise to international prominence of self-determination in US President Woodrow Wilson’s wartime rhetoric and the role it played at the Paris Peace Conference of 1919. I use the prism of self-determination to explore in greater depth the Paternalistic Idea of state freedom that we encountered in Chapter Three.⁵⁸⁹ I argue that in the Paternalistic Idea an association was made between the state and its ‘people’. Peoples were thought to have a right to be self-governing and, hence, the *ideal* of self-mastery was a familiar one of equal states determining their own way of life, free from the interference of others. However, the Paternalistic Idea also involved a hierarchical view of people’s fitness for self-government, an idea which legitimated both great power primacy and relations of dependence between states and less ‘advanced’ peoples. I demonstrate that this idea of state freedom was dominant at the Paris Peace Conference and was

⁵⁸⁷ United Nations, ‘International Covenant on Civil and Political Rights’, 16 December 1966, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>; United Nations, ‘International Covenant on Economic, Social and Cultural Rights’, 16 December 1966, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

⁵⁸⁸ Manela, *The Wilsonian Moment*.

⁵⁸⁹ In the context of western hemisphere debates about intervention.

reflected in the way great powers dealt with the futures of the imperial territories of the defeated powers.

The second historical moment I focus on is the debates about self-determination and colonialism that took place in the United Nations in the 1950s and at the 1955 Bandung Asia-Africa Conference. These debates explicitly addressed the dependency of colonial peoples which was legitimised by the Paternalistic Idea of state freedom and perpetuated by the Civil Idea in the Trust and Non-Self-Governing Territories of the UN. I argue that debates about self-determination in the 1950s were, in significant ways, arguments about the freedom of states. Newly independent post-colonial states challenged the notion that the freedom of peoples could be provided through dependence, arguing that the freedom of statehood was applicable to all political communities regardless of their level of 'advancement'. In what I term the *Independence Idea* of state freedom, the self-mastery of the state was understood as independence from 'alien' subjugation, both formal and informal. There were two necessary conditions for this self-mastery to be realised. The first was for political authority to be consistent with the racial, cultural and geographical characteristics of a political community; an idea which implied the independence of all colonial peoples. The second was that, once constituted, these independent states should be free from the interference and domination of other states. I argue that although the Independence Idea of state freedom was resisted on the grounds of both the freedom of existing states and the freedom of colonial peoples themselves, the Independence Idea was implicated in anti-colonial states' successful challenge to the legitimacy of empire and formal relations of dependence between political communities.

Wilsonian ideals and post-war realities

Woodrow Wilson was a vocal advocate for the independence and equality of states. He was a champion of the rights of small states and repeatedly asserted the right of all nations to determine their own political characteristics and way of life, free from the domination of the powerful. Wilson was also heralded as a champion of the rights of peoples, and his repeated assertions of the right to self-determination were echoed in the national aspirations of minorities and dependent peoples around the world. Nonetheless, as we saw in Chapter Three, while condemning intervention Wilson was perhaps also the "greatest interventionist of his age,"⁵⁹⁰ and his administration repeatedly

⁵⁹⁰ Lester D. Langley, *America and the Americas: The United States in the Western Hemisphere* (Athens: University of Georgia Press, 1989), 110.

interfered in the internal affairs of Latin American states. As we will see in this section, in the aftermath of World War I, Wilson and his fellow great power leaders met privately to re-shape the political map of Europe and to institutionalise the dependency of peoples in Asia and Africa on the administration of established powers.

Wilson's words and political deeds had an uneasy coexistence, but the tensions between his rhetoric and actions are not the result of bald hypocrisy. Here I analyse Wilson's ideas from the perspective of state freedom and show that the Paternalistic Idea of state freedom he displayed encouraged several interpretations, each implying different relations of control between states. Wilson himself, however, was consistent in holding a hierarchical view of relations between peoples which was based on the realisation of universal values. The grammar of the Paternalistic Idea of state freedom were expounded in Chapter Three. In this idea the self-mastery of states consisted of being a *responsible* state that was self-limiting (with respect to its ambitions of mastery over others) and self-controlling. As we saw in the case of the Wilson administration's intervention in Mexico, responsible state behaviour was closely linked with both civilisation and democracy. The state was an expression of the popular sovereignty of the people and thus ought to be controlled by the 'consent of the governed'. However, not all peoples were equally fit for self-government and the 'interposition' of civilised states was on occasion necessary to advance a political community's capacity for self-mastery. Asymmetrical relations of control between states—ranging from great power management, occasional intervention through to on-going dependency—were, therefore, legitimated by the Paternalistic Idea. These practices were understood as fulfilling the responsibility of developed states to promote the general progress of civilisation and promoting the freedom the uncivilised peoples.

In this section I first use the concept of self-determination as a way of demonstrating how the Paternalistic Idea of state freedom informed Wilson's vision for how international relations ought to be conducted. I then turn specifically to the Paris Peace Conference of 1919. I argue that the deliberations regarding the political futures of the territories of the defeated empires were characterised by contestation between the Paternalistic and Self-Help Ideas of state freedom. In the Self-Help idea of state freedom—which was introduced in Chapter Three in my analysis of the Concert of Europe—states are self-mastering when they are free to determine for themselves the appropriate action to guarantee their security and essential interests. At the Paris Peace Conference, this idea of state freedom informed claims, notably by France and Italy, for territorial boundaries that protected their economic and security interests. The Paternalistic Idea put limits on these

claims, demanding that they were at least minimally consistent with peoples' national aspirations and the creation of viable independent states. Although the great powers took the responsibility for making decisions on the reconstruction of the post-war political map, this process was understood by those conducting it as being done not according to their own self-interests but in the interest of the populations in question. In accordance with the hierarchical dimension of the Paternalistic Idea, this interest was in some cases decided to be expressed in independent statehood but in others the continuation of relations of dependency.

Wartime rhetoric: consent of the governed and equality of nations

Although self-determination is often associated with ideas stretching back to the American and French Revolutions, the history of the term itself is a shorter one, first coming to international significance in the early part of the 20th century. Self-determination's first significant champion in the 20th century was Lenin, whose conception consisted of the right of ethno-national groups to determine their own destiny and the right of colonial peoples to be liberated through independence.⁵⁹¹ As we shall see below, the importance of these ideas would resurface following World War II and frame much of the discussion of self-determination that lead to rapid and widespread decolonisation in the 1950s and 1960s. In the attempt to reconstruct world order following the First World War, however, the ideas about self-determination that dominated the international stage were those of Wilson. The high-minded principles put forward by Wilson as the basis of international relations based on justice rather than force framed the allied post-war settlement, with self-determination afforded a central place in its intellectual foundations. Throughout the war, both before and after United States involvement, Wilson's public addresses were replete with aspirations for an international order based on two principles; first that it should be people themselves that decide their political arrangements and futures and, second, that all nations should enjoy equality regardless of differences in size or power. In 1916, in a speech to the League to Enforce Peace, Wilson asserted the first "fundamental" belief of the United States to be that "every people has the right to choose the sovereignty under which they shall live".⁵⁹² The second was that "the small states of the world have a right to enjoy the same respect for their sovereignty and for their territorial integrity that great and powerful nations expect and insist upon."⁵⁹³

⁵⁹¹ Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge University Press, 1999), 16.

⁵⁹² Woodrow Wilson, 'Address Delivered at the First Annual Assemblage of the League to Enforce Peace', accessed 29 May 2013, <http://www.presidency.ucsb.edu/ws/?pid=65391>.

⁵⁹³ Ibid.

In a 1917 address to the Senate, Wilson again argued that the peace to conclude World War I must be based on both equality and the consent of the governed. He stated:

Only a peace between equals can last, only a peace the very principle of which is equality and a common participation in a common benefit. The right state of mind, the right feeling between nations, is as necessary for a lasting peace as is the just settlement of vexed questions of territory or of racial and national allegiance.

The equality of nations upon which peace must be founded if it is to last must be an equality of rights; the guarantees exchanged must neither recognize nor imply a difference between big nations and small, between those that are powerful and those that are weak. Right must be based upon the common strength, not upon the individual strength, of the nations upon whose concert peace will depend. Equality of territory or of resources there of course cannot be; nor any other sort of equality not gained in the ordinary peaceful and legitimate development of the peoples themselves. But no one asks or expects anything more than an equality of rights. Mankind is looking now for freedom of life, not for equipoises of power.⁵⁹⁴

Wilson's political vision has a number of elements that chime with elements of state freedom that we have encountered in previous chapters. Wilson's emphasis on equality between states echoes Vattel's Natural Idea of state freedom and the Categorical Idea advanced by Barbosa in The Hague. The requirement of "common strength", meanwhile, prefigures the collective security of the Civil Idea that would become central to the creation of the UN in San Francisco. Together these elements provide for a security which makes possible the "freedom of life". At the same time, however, Wilson's emphasis on the importance of democracy within states distinguishes it from the Civil Idea that would become prevalent later in the 20th century:

And there is a deeper thing involved than even equality of right among organized nations. No peace can last, or ought to last, which does not recognize and accept the principle that governments derive all their just powers from the consent of the governed, and that no right anywhere exists to hand peoples about from sovereignty to sovereignty as if they were property.⁵⁹⁵

Wilson thus saw the two principles of consent of the governed and equality of nations as mutually reinforcing; the requirement of consent delegitimised the domination of one people over another,

⁵⁹⁴ Woodrow Wilson, 'Address of the President of the United States to the Senate - World War I Document Archive', accessed 29 May 2013,
http://www.lib.byu.edu/index.php/Address_of_the_President_of_the_United_States_to_the_Senate.

⁵⁹⁵ Ibid.

thus denying a hierarchy of rights between nations and instead demanding equality. These principles were more than mere idealistic aspirations for Wilson, they were claimed to be the necessary foundations of an enduring peace. Two months later, in his second inaugural address, Wilson reaffirmed the triumvirate of peace, consent and equality, stating that “the essential principle of peace is the actual equality of nations in all matters of right or privilege” and that “governments derive all their just powers from the consent of the governed and that no other powers should be supported by the common thought, purpose or power of the family of nations”.⁵⁹⁶ The repeated association that Wilson made between self-government, equality of nations and a lasting peace implied a programme for reconstructing international relations that had some notion of self-determination as its foundation.

This vision was further articulated in January 1918 when Wilson delivered his famous “Fourteen Points” speech which outlined his vision for the settlement of the war, formed the basis of the German surrender and was referred to throughout the Paris Peace Conference. The speech contained elements of both pluralism and universal values. Introducing his fourteen points, Wilson said:

What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, *wishes to live its own life, determine its own institutions*, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression. All the peoples of the world are in effect partners in this interest.⁵⁹⁷

The idea of creating a peace in order to allow states to live their own lives suggests a pluralist idea of self-mastery similar to the Natural and Categorical Ideas of state freedom. However, the speech also implied a conception of the state as directly identifiable with its people. Although there was no specific mention of the term self-determination in the speech, Wilson affirmed the importance of the interests of colonial peoples in settling colonial claims,⁵⁹⁸ the “independent determination of [Russian] political development”,⁵⁹⁹ that Italian borders should coincide with “clearly recognisable lines of nationality”,⁶⁰⁰ and that the “peoples of Austria-Hungary...should be accorded the freest

⁵⁹⁶ Woodrow Wilson, ‘Woodrow Wilson: Second Inaugural Address.’, accessed 30 May 2013, http://xroads.virginia.edu/~DRBR/wilson_2.html.

⁵⁹⁷ Woodrow Wilson, ‘President Woodrow Wilson’s Fourteen Points’, accessed 29 May 2013, http://avalon.law.yale.edu/20th_century/wilson14.asp emphasis added.

⁵⁹⁸ Ibid.

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

opportunity to autonomous development”.⁶⁰¹ In the aftermath of the war, the speech also became a reference point for peoples claiming independence and during the Paris Peace Conference Wilson admitted that the Fourteen Points had “become a kind of treaty which binds [the great powers]”.⁶⁰²

At the same time as Wilson was advocating his conception of the consent of the governed, Lenin was using the concept of self-determination to refer to the “liberation of all colonies; the liberation of all dependent, oppressed, and non-sovereign peoples”.⁶⁰³ The Bolsheviks' strongly anti-imperialist and anti-colonialist ideas translated into a clear articulation of colonial peoples' right to independence, either through plebiscite or forceful means. Self-determination was not limited to the colonial context, however, and also in the context of metropolitan sovereign states Lenin advocated the right to independence of all ethnic or national groups. This right could take the form of autonomy within an existing state, or full secession depending on the wishes of the people.⁶⁰⁴

Up until 1918, though the phrase self-determination was used extensively by the Bolsheviks it had not been part of the Allied powers' lexicon. In January of that year, however, the British Prime Minister David Lloyd George claimed that the territorial settlement following the war must respect “the right of self-determination or the consent of the governed”, associating for the first time Wilson's ideals with those that had been associated with Lenin and the Bolsheviks.⁶⁰⁵ From that point on, Wilson himself started to employ the language of self-determination when discussing post-war order. The month after Wilson had presented his Fourteen Points, the US President, in his “Four Principles” speech to a joint session of Congress, demonstrated this shift in rhetoric. In it, he stated:

Peoples are not to be handed about from one sovereignty to another by an international conference or an understanding between rivals and antagonists. National aspirations must be respected; peoples may now be dominated and governed only by their own consent. 'Self-determination' is not just a mere phrase. It is an imperative principle of action which statesmen will henceforth ignore at their peril.⁶⁰⁶

The problem with this ‘imperative principle of action’ was, of course, the distinct lack of clarity as to

⁶⁰¹ Ibid.

⁶⁰² Woodrow Wilson in Paul Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919): From the Delivery of the Peace Terms to the German Delegation to the Signing of the Treaty of Versailles*, ed. Arthur Stanley Link, vol. 2 (Princeton University Press, 1992), 106.

⁶⁰³ Manela, *The Wilsonian Moment*, 37.

⁶⁰⁴ Ibid., 37–9; Cassese, *Self-Determination of Peoples*, 14–19.

⁶⁰⁵ Manela, *The Wilsonian Moment*, 39.

⁶⁰⁶ Robert Lansing, *The Peace Negotiations, a Personal Narrative* (Boston: Houghton Mifflin, 1921), 95–6.

what precise imperative it imposed on 'statesmen'. In emphasising national aspirations and hinting at a link between peoples and territories it was clear that self-determination for Wilson meant transcending balance of power as a mode of international governance. Hence, self-determination was inconsistent with the Self-Help Idea of state freedom articulated by Great Britain in the Concert of Europe. In the Self-Help Idea, states are self-mastering when they are able to determine their own essential interests and the appropriate means to follow it, including imposing territorial adjustments in the interest of securing balance of power. Wilson explicitly contrasted his vision for international order with the 19th century mode of conducting international relations. In response to German proposals that the questions of "territory and sovereignty" posed by the war should be resolved by the (powerful) "nations most immediately concerned by interest or neighbourhood", Wilson replied:

The method the German Chancellor proposes is the method of the Congress of Vienna. We cannot and will not return to that. What is at stake now is the peace of the world. What we are striving for is a new international order based upon broad and universal principles of right and justice,—no mere peace of shreds and patches.⁶⁰⁷

In the Four Principles Speech, Wilson claimed that balance of power politics was discredited and the principles of peace required that "peoples and provinces" were "not to be bartered about from sovereignty to sovereignty as if they were mere chattels and pawns in a game". Instead, "every territorial settlement in [World War I] must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival States". Moreover, "all well defined national aspirations" were to be accorded the "utmost satisfaction" without introducing grievances that would threaten the future peace of Europe.⁶⁰⁸ Beyond the attempt to transcend balance of power, however, the implications of self-determination for the freedom of states and legitimate relations of control between them were somewhat ambiguous.

The 'Four Principles' speech, suggested that existing sovereign states did not have the unfettered right to treat peoples as possessions. Although not articulated with any specificity, peoples were holders of rights which imposed obligations on states. The speech also seemed to suggest that in the territorial settlement following the war, these peoples and their interests had priority over the claims

⁶⁰⁷ Woodrow Wilson, 'President Wilson's Address, February 11, 1918', accessed 30 May 2013, <http://www.gwpda.org/1918/wilpeace.html>.

⁶⁰⁸ Ibid. In the same speech, Wilson claimed that the war "had its roots in the disregard of the rights of small nations and of nationalities which lacked the union and the force to make good their claim to determine their own allegiances and their own forms of political life".

of states. Further, it indicated that satisfying national aspirations was a normative goal of the post-war order. These three ideas were thus associated with self-determination, a concept that was not merely claimed as an ideal, but asserted as an “imperative principle of action”. The use of the Bolshevik term, combined with Wilson's acknowledgement of the national aspirations of peoples,⁶⁰⁹ facilitated an interpretation of Wilson's wartime pronouncements as advocating the right of all peoples to determine their own political status. Indeed, from then on, the term 'self-determination' began to replace the phrase 'consent of the governed' in Wilson's rhetoric, raising the expectations of peoples with aspirations of independent statehood, both in Europe and in colonial territories.

In the Four Principles speech, Wilson argued against the control of one nation over another, stating:

I am proposing, as it were, that the nations should with one accord adopt the doctrine of President Monroe as the doctrine of the world: that no nation should seek to extend its polity over any other nation or people, but that every people should be left free to determine its own polity, its own way of development, unhindered, unthreatened, unafraid, the little along with the great and powerful.⁶¹⁰

Because of a lack of specificity regarding the terms ‘nation’ and ‘people’, however, it was not entirely clear what were the implications of Wilson’s vision. Were the nations to be self-determining existing populations, implying the imposition of democracy? Were they existing states, implying non-intervention and an end to military aggression? Or did ‘people’ mean any self-identifying group with aspirations for independence, implying the end of colonialism?

Wilson frequently emphasised the need for “guarantees of political independence and territorial integrity to great and small states alike”.⁶¹¹ This was a normative aim that hinted at a pluralist international society in which state equality and non-intervention were shared norms at the international level, but where states were at liberty to develop their own values domestically. At the same time, however, self-determination—and the democratic values invested in it by Wilson—was upheld as a universal principle applicable to and in the interests of all states. The war, in Wilson's interpretation was a “war of emancipation”, and a fight for democratic values that would free people “from the threat and attempted mastery of selfish groups of autocratic rulers”.⁶¹² The “consent of the governed” was one of the principles that should guide international order, and although Wilson’s

⁶⁰⁹ An acknowledgement which was, it is worth noting, qualified by the requirement of order and stability (this qualification would later be invoked by several states in subsequent debates on self-determination in the United Nations).

⁶¹⁰ Wilson, ‘Address of the President of the United States to the Senate - World War I Document Archive’.

⁶¹¹ Wilson, ‘President Woodrow Wilson’s Fourteen Points’.

⁶¹² Wilson, ‘President Wilson’s Address, February 11, 1918’.

proposals were “American principles, American policies” they were nonetheless, in his view, “the principles and policies of forward-looking men and women everywhere, of every modern nation, of every enlightened community”.⁶¹³ They were, in short, “the principles of mankind and must prevail”.⁶¹⁴ The tension between the acceptance of pluralism, with states determining and living by their own values, and the belief in the universal application of his values ran throughout Wilson’s pronouncements. Echoing the Kantian prescription for perpetual peace, Wilson claimed “only a Nation whose government was its servant and not its master could be trusted to preserve the peace of the world”.⁶¹⁵ As G John Ikenberry has noted, Wilson believed “a steadfast concert of peace” could “never be maintained except by a partnership of democratic nations”⁶¹⁶ but at the same time “understood that the architecture of a liberal order would need to be universal and open in scope and membership”.⁶¹⁷

According to Erez Manela, the term ‘self-determination’ was introduced into Wilson’s lexicon to neutralise Bolshevik criticism. However, while Lenin used the phrase to call for the right of national groups to determine their own international status and for the end of imperial domination, for Wilson this ambiguous term was synonymous with what he had previously expressed as self-government or consent of the governed.⁶¹⁸ Rarely was self-determination for Wilson qualified as specifically national and, rather than signifying the independence of ethnic groups, it was used in a way broadly equatable with popular sovereignty and democracy.⁶¹⁹ Antonio Cassese asserts that self-determination for Wilson was the “logical corollary of popular sovereignty”,⁶²⁰ and one can see running throughout the President’s often ambiguous and inconsistent pronouncements on self-determination an underlying current of democratic ideals. As Michla Pomerance shows, the terms ‘self-government’ and ‘consent of the governed’ had an important place in Wilson’s political philosophy prior to the outbreak of war. Both terms, although somewhat lacking in conceptual clarity, referred to two elements of democracy; the first was the right of the people to choose its own form of government, while the second was the continued input of the people in the process of

⁶¹³ Wilson, ‘Address of the President of the United States to the Senate - World War I Document Archive’.

⁶¹⁴ Ibid.

⁶¹⁵ Michla Pomerance, ‘United States and Self-Determination: Perspectives on the Wilsonian Conception, The’, *Am. J. Int’l L.* 70 (1976): 20; See also Wilson’s statement to Congress in April 1917, when he claimed, ‘self-governed nations do not fill their neighbour states with spies or set the course of intrigue to bring about some critical posture of affairs which will give them an opportunity to strike and make conquest’ *ibid.*, 19.

⁶¹⁶ Wilson, quoted in G. John Ikenberry, ‘Liberal Internationalism 3.0: America and the Dilemmas of Liberal World Order’, *Perspectives on Politics* 7, no. 01 (2009): 74.

⁶¹⁷ Ibid.

⁶¹⁸ Manela, *The Wilsonian Moment*, 42.

⁶¹⁹ Ibid.

⁶²⁰ Cassese, *Self-Determination of Peoples*, 19.

government.⁶²¹ These principles had not been internationalised prior to the war, and nor had they been cast in 'nationalist' terms; the right of a "people" to choose its own form of government referred to the people of an existing state, rather than a 'people' in a sociological sense.

This democratic aspect of self-determination notwithstanding, in the wartime period ethnic and cultural understandings of the term 'people' frequently appeared in Wilson's vision for peace. The democratic understanding of nationality was not superseded, however, and, despite obvious tensions between the two, both strains of thought coexisted as part of Wilson's programme for world order. On the question of the future of the Austro-Hungarian Empire, for example, Wilson seemed to oscillate in his prescriptions. In an interview in 1914, he stated that Austria-Hungary "ought to go to pieces for the welfare of Europe",⁶²² but in December 1917 he implied that neither the boundaries nor internal constitution of the multi-ethnic empire were of international concern. In an address to the US Senate, he affirmed the need to free Austria-Hungary from "the impudent and alien dominion of the Prussian military and commercial autocracy". At the same time, he stated:

We do not wish in any way to impair or to re-arrange the Austro-Hungarian Empire. It is no affair of ours what they do with their own life, either industrially or politically. We do not purpose or desire to dictate to them in any way. We only desire to see that their affairs are left in their own hands, in all matters, great or small.⁶²³

In his Fourteen Points speech a month later, Wilson then asserted that the peoples of Austria-Hungary, "whose place among the nations we wish to see safeguarded and assured, should be accorded the freest opportunity to autonomous development".⁶²⁴ The report of the inquiry upon which the Fourteen Points were based had suggested that US policy towards the Empire must "consist first in a stirring up of nationalist discontent, and then in refusing to accept the extreme logic of this discontent which would be the dismemberment of Austria-Hungary".⁶²⁵ This changing position on the future of Austria-Hungary—at times suggesting its political arrangements were a concern exclusively for the Austria-Hungarian state alone to decide, at times concerning itself with the future of its constituent peoples—is indicative of the tension between the democratic, pluralist and sociological aspects of Wilson's thought.

⁶²¹ Pomerance, 'United States and Self-Determination', 17.

⁶²² Ibid., n. 91.

⁶²³ Ibid., 18.

⁶²⁴ Wilson, 'President Woodrow Wilson's Fourteen Points'.

⁶²⁵ Quoted in Pomerance, 'United States and Self-Determination', 18.

The application of self-determination to sociological peoples, rather than just populations of existing states, implied radical reconfigurations of political authority in the form of the disintegration of colonial empires as well as the secession of significant minorities from existing states. This interpretation of self-determination was the interpretation adopted by colonial peoples in their appeals to the Paris Peace Conference for independence or autonomy.⁶²⁶ However, although Wilson repeatedly emphasised the equality of nations as fundamental to ensuring peace, and the right of all peoples to self-determination, he was “notoriously unenlightened” with respect to ideas about “racial and civilizational superiority”.⁶²⁷ For Wilson, the level of development of a people dictated the appropriate form of their political status. Although self-determination may have been theoretically applicable to all peoples, what was meant by that phrase varied depending on the ‘self’ in question. This was evident in Wilson’s pre-war attitude to the people of the Philippines who, according to Wilson, were a people unprepared for the responsibility of democracy and therefore ineligible for such a right. Wilson claimed in this case that “[f]reedom is not giving the same government to all people, but wisely discriminating and dispensing laws according to the advancement of a people”.⁶²⁸ As he had written his days as a professor, the consent of Filipinos and the consent of Americans to government were two “radically different things,—not in theory, perhaps, but in practice”.⁶²⁹ Wilson saw the United States’ task in the Philippines to make the population “fit” for independence, a process that ought to be gradual and could potentially be lengthy. This evolutionary rather than revolutionary attitude toward the self-government of peoples remained part of the Wilsonian conception of self-determination. As Wilson’s Secretary of State Robert Lansing later wrote, supporters of the principle as fundamental to all peoples nonetheless did not claim it for “races, peoples, or communities whose state of barbarism or ignorance [deprived] them of the capacity to choose intelligently their political affiliations”.⁶³⁰

Wilson’s racism was not prominent in his wartime rhetoric. However, it is notable that although the “interests” of populations were emphasised as crucial in determining “questions of sovereignty”,⁶³¹ that is not the same as saying that those ‘interests’ should be self-determined by the relevant populations. As we will see below, when it came to the process of dealing with the construction of state boundaries and dealing with colonial issues, the understanding of self-mastery of the Paternalistic Idea legitimated a prominent degree of hierarchy between states and peoples.

⁶²⁶ See generally Manela, *The Wilsonian Moment*.

⁶²⁷ Ikenberry, ‘Liberal Internationalism 3.0’, 75.

⁶²⁸ Manela, *The Wilsonian Moment*, 28–9.

⁶²⁹ Quoted in *ibid.*, 30.

⁶³⁰ Lansing, *The Peace Negotiations, a Personal Narrative*, 102.

⁶³¹ Wilson, ‘President Woodrow Wilson’s Fourteen Points’.

Paris Peace Conference: great power management and the Mandates System

When the delegations of 32 states came together in Paris in January 1919 to negotiate the settlement of World War I, President Wilson's principles were faced not only with a task of enormous scope and gravity, but also a cacophony of competing ideas and interests. In addition to the delegations themselves, with their individual state interests, the conference had attracted representatives of manifold dependent peoples. These peoples, their aspirations for greater political freedom stoked by the President's proclamation of the principle of self-determination, clamoured to petition the leaders of the Associated Powers with their claims.⁶³² Such claims only attempted to add to an already weighty list of issues to consider in which the principle of self-determination was implicated. First there was the question of colonies; what ought to be done with the German territories in Africa and the Pacific, and with the Ottoman possessions in the Middle East? Second, there was the question of how to configure territorial boundaries in Europe. In addition to the general rising of aspirations of independence among small 'nations', there was the issue of borders affected by annexation during the war, and the question of the defeated empire of Austria-Hungary. Wilson's challenge was to address these problems in ways consistent with the principle of self-determination without creating instability and new potential causes of war. This considerable undertaking was to be conducted in the general interest and in a manner according to the principle of the equality of nations, eschewing the secret practice great power diplomacy.

In the context of these grand ambitions, the peace conference has been characterised as a victor's peace, with the self-interest of the great powers triumphing over the morality and justice of Wilson's wartime promises. Wilson is often portrayed as being weak when confronted with the stubbornness and wiliness of his fellow leaders and, as a consequence, permitting too great a deviation from what the world had come to expect in light of his statements prior to the conference. While this interpretation may have some merit, here I advance two reasons for the inconsistency between the expectations and realities of the peace settlement, both of which pertain to ideas of state freedom. The first is that in the deliberations regarding the settlement of territorial issues, the Paternalistic Idea was not the only idea of state freedom in evidence. Also identifiable was the Self-Help Idea, which held the self-mastery of states to consist of states determining the measures necessary to protect their own essential and security interests. The second reason is that the Paternalistic Idea of state freedom itself was inconsistent with many of the hopes and expectations for the peace

⁶³² See generally Manela, *The Wilsonian Moment*.

settlement. Although the language of equality and self-determination created high expectations in small states and dependent peoples, the Paternalistic Idea, as we have seen, demanded hierarchal elements within the international system. While the Wilsonian *ideal* may have been a world of equal, independent, self-determining peoples, the realisation of this ideal was conditional on peoples meeting the demands of responsible self-government. This developmental dimension of the Paternalistic Idea informed both the process by which the peace settlement was arrived at—a process dominated by the great powers—and the relations of dependence that were institutionalised in the League of Nations.

At the outset of the negotiations, there was reason to believe that the self-determination of peoples would be the dominant ideal driving the settlement. In September 1919, Wilson himself claimed that the “fundamental principle” of the Covenant of the League of Nations was that “the countries of the world belong to the people who live in them, and that they have a right to determine their own destiny and their own form of government and their own policy”.⁶³³ This language of states determining their own destinies prefigures the pronouncements by the US and its allies in the International Conferences of American States that were reconstructed in Chapter Three. In the Paternalistic Idea of state freedom, states were in control of their own destiny not as a result of an absence of external interference, but through being *responsibly* self-governing. The same idea applied to the self-determination of peoples in 1919. Although Wilson had stated that the peace must be made “in the interest and for the benefit of the populations concerned”,⁶³⁴ that did not mean that the settlements would be made *by* the parties involved, or even that they would necessarily be consulted. Although Wilson had, towards the end of the war, criticised the German Chancellor for suggesting territorial matters ought to be settled in private negotiations, the heads of state of the four most powerful Allied states—Britain, France, Italy and the United States—nonetheless informally decided that the decisions of the conference should be taken by a Council of the ten principal powers.⁶³⁵ These powers would be facilitated in their decision by the reports of commissions specifying recommendations on the issues to be resolved.⁶³⁶ Even this 'Council of Ten', however, proved unmanageably inefficient, with much of its time taken up with listening to lengthy pleas from smaller states regarding their aspirations for the settlement. The four principal heads of state, therefore, began to meet informally and in private. This 'Council of Four' met regularly

⁶³³ Quoted in Cassese, *Self-Determination of Peoples*, 20.

⁶³⁴ Wilson, ‘President Wilson’s Address, February 11, 1918’.

⁶³⁵ Edward Mandell House and Charles Seymour, *What Really Happened at Paris: The Story of the Peace Conference, 1918-1919* (Charles Scribner’s Sons, 1921), 17, 31.

⁶³⁶ *Ibid.*, 26.

between March 24 and June 28 1919 and took “to themselves the responsibility of decision”.⁶³⁷ This hierarchical process of decision-making was legitimated by the Paternalistic Idea of state freedom because, as leaders of established great powers and bastions of civilisation, Wilson, Georges Clemenceau, David Lloyd George and Vittorio Orlando could be entrusted with the responsibility to make decisions in the general interest and for the advancement of collective civilisation. The decisions taken by the Council of Four were given greater legitimacy in the minds of those involved by their being based on—and largely following—the recommendations of territorial commissions which were understood to have determined the ‘facts’ of ethnic and territorial questions in an objective, rather than political, manner.⁶³⁸

The records of the meetings of the Council of Four⁶³⁹ show repeated attempts—particularly on the part of Wilson himself—to adhere to the principle of self-determination and to decide matters of sovereignty and territory in accordance with the interests and desires of the people concerned. The records are also replete, however, with instances of the four leaders taking into consideration other factors, such as economic and military concerns, that were at odds with self-determination conceived either as a principle of democracy or of ethnic homogeneity. In general, however, the records of these meetings show that two aspects of self-determination were repeatedly prominent as stated concerns: first, the need for political boundaries to correspond with the boundaries of ‘peoples’ that had been identified by the territorial commissions; and, second, the need to create states possessing of sufficient territory and population to viably sustain independence. As I will show below, where tensions between these two aims were insurmountable, the powers attempted to reconcile them in the form of Minority Treaties, which enforced standards of behaviour on states with the aim of protecting the rights of minorities.

There was no shortage of cases in which the Council of Four faced problems in reconciling territorial borders with the principle of self-determination. In the decision taken by the powers with respect to Poland, for example, the requests of the Polish representatives were given great weight. While the construction of an independent Poland conformed to the demands of self-determination, the viability of that state as substantively independent and self-determining led to its boundaries being set in such a way as to encompass a German population of around one million inhabitants.⁶⁴⁰ Romania and Czechoslovakia were also created as independent states in adherence to the principle

⁶³⁷ Ibid., 35.

⁶³⁸ See *ibid.*, 29–36.

⁶³⁹ These records were kept by the official interpreter given that the gatherings were not public.

⁶⁴⁰ House and Seymour, *What Really Happened at Paris*, 68, 77, 208.

of self-determination but in meeting the strategic and economic interests of those new states, significant ethnic minorities were placed within their territory—in the case of Czechoslovakia, three million Bohemian Germans.⁶⁴¹

Similarly compromised solutions were found in almost all issues regarding sovereignty and territory, with many of the contentious decisions going against the wishes of the defeated central powers. On the question of the Saar Basin, for example—a mining region which France had demanded as compensation for the destruction of her own mines by Germany—there was debate as to whether France ought to be granted sovereignty of the region despite the fact that its population was clearly German when considered in historical and linguistic terms. Wilson declared that it would be “serious to do anything which taints a principle [self-determination] to which we are committed”.⁶⁴² He also admitted the impossibility of rigidly adhering to principle of the ethnic self-determination of peoples:

[We] can't say to these people: “You must accept the form of government which we will impose upon you.” That is what must be avoided as far as possible, although it must be admitted that it is inevitable, especially in countries where different populations are mixed, that some elements will find themselves detached from their national group and joined to the neighbouring group.⁶⁴³

Although the Council eventually decided that the people of the Saar Basin would determine whether they wished to live under the sovereignty of Germany or France, this right would only be effected after 15 years of French ownership of the mines in the entire region. Notwithstanding the clear and repeated articulation of a need to create viable states which were, as far as possible, consistent with the principle of self-determination, there were occasions where this principle butted up against claims which echoed Castlereagh's Self-Help Idea of state freedom. As outlined in Chapter Three, self-mastery in the Self-Help idea consisted of states determining for themselves what was necessary for their own security and the protection of their essential interests. The boundaries of Germany, for example, were determined with the interests of peoples in mind, but also taken into consideration were what were perceived as legitimate “demands of injured neighbours”.⁶⁴⁴ Despite the request of the (Germanic) Austrians to be joined with Germany, this proposal met with the decisive opposition of France,⁶⁴⁵ whose arguments about its future security were acquiesced to.

⁶⁴¹ Ibid., 105.

⁶⁴² Paul Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919): To the Delivery to the German Delegation of the Preliminaries of Peace*, ed. Arthur Stanley Link, vol. 1 (Princeton University Press, 1992), 83.

⁶⁴³ Ibid., 1:84.

⁶⁴⁴ House and Seymour, *What Really Happened at Paris*, 65.

⁶⁴⁵ Ibid., 108.

One of the territorial issues on which the Council of Four deliberated the longest was that of Italian borders. Italy had refused to allow its territorial issues to be discussed by any territorial commissions,⁶⁴⁶ and was highly assertive in the Council of Four regarding what it perceived as its rightful claims. In this case, Wilson's attempt to establish a new mode of conducting international relations was confronted directly with pre-war diplomatic practices. The Treaty of London⁶⁴⁷ granted numerous territorial gains to Italy, including Tyrol, the Austrian Littoral and significant parts of Dalmatia. These acquisitions would be incompatible with self-determination and, in addition, Italy demanded the port town of Fiume (now Rijeka in Croatia). In the discussions, Lloyd George and Clemenceau—Prime Ministers of Britain and France respectively—declared themselves unable to renege on the commitment given in the Treaty of London, and bound to respect it unless it was broken by Italy herself. Orlando, the Italian Prime Minister, repeatedly invoked the right of Italy to the territories legally, on account of the Treaty, and morally, on account of its war effort. He also used the Treaty as a bargaining chip, proposing to renounce Italian claims to Dalmatia as long as Italy was satisfied in Fiume. Wilson, for his part, asserted that the United States was not a signatory of the Treaty of London—which he declared to be unjust and against the principles fought for in the war—but was instead bound by the commitments he had made in the Fourteen Points and “the principle that one cannot dispose of peoples without their consent”.⁶⁴⁸ Nonetheless, against his aim to “endeavour to draw boundaries everywhere according to ethnolnational lines”,⁶⁴⁹ Wilson granted Italy Tyrol as far as the Brenner pass (despite the region's Austrian population) in order to provide Italy a secure border to the north,⁶⁵⁰ and was willing to award it parts of Dalmatia in order to reach a compromise which would keep Italy in the peace settlement. He was unwilling, however, to concede to Italy on the point of Fiume, a disagreement that led to schism between the two countries and, eventually, the Italian withdrawal from the conference.

The debates between the leaders on this subject demonstrate Wilson's attempt to transcend the politics of great power interest and the unwillingness to disregard the populations of territories whose futures were to be decided. However, they also illuminate how compromised and imperfect was the great powers' attempt to determine territorial questions in ways consistent with the Paternalistic Idea of state freedom's aim of promoting the self-mastery of other states from above.

⁶⁴⁶ Ibid., 102.

⁶⁴⁷ An agreement struck between the Entente Powers (Britain, France and Russia) and Italy to secure the latter's entry into the war on their side.

⁶⁴⁸ Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919)*, 1992, 2:213.

⁶⁴⁹ Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919)*, 1992, 1:294.

⁶⁵⁰ Ibid., 1:104.

With respect to Italy's territorial demands Wilson claimed:

The Treaty of London is based on the idea of former European policy—that the stronger power has the right to settle the fate of the weaker: from that it follows that France and England had the right to deliver to Italy populations which didn't belong to them. If this idea was maintained today, it would provoke reactions fatal to the peace of the world.⁶⁵¹

The discussion of Italy's borders—along with the discussion of every other issue of territory and sovereignty—also show, however, that the self-determination of peoples was not the only principle to be considered. Indeed, it was much compromised by the need to also consider the need for states to be viably independent politically, militarily and economically. Orlando's reply to Wilson demonstrates a cognisance of this fact:

I don't admit that the Treaty of London is a violation of justice...What was done then resembles what we do here every day. Every day, we have to resolve very complex territorial problems; ethnographic questions are mixed with economic questions; coasts, railroads, mountains must be taken into account...This treaty was a compromise such as we have often made for some weeks.⁶⁵²

To this assertion, Wilson replied: "Except where nearly impassable frontiers forced themselves upon us...we have followed the boundaries traced by ethnographic affinities, according to the right to self-determination".⁶⁵³ He also noted that the Council had granted a plebiscite to the population of Danzig despite "decisive strategic and economic reasons for giving Danzig to Poland".⁶⁵⁴

This exchange encapsulates the tensions evident at the conference in matters relating to self-determination. Orlando's attempt to equate the Treaty of London with the work of the Council implied a failure of Wilson's attempt to transcend the Self-Help idea of state freedom and to institute a new mode of conducting international affairs. This was true in part, given that the decisions taken with respect to states and populations at best with their input but without their control over the final outcome. On the other hand, the discussions in the Council do show that sustained and often agonising attempts were made to meet national aspirations and to match up territorial and sociological borders. The attempt made was inevitably imperfect, especially given the requirement for states to be viably independent. In cases where the provision for "nationalities to determine their

⁶⁵¹ Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919)*, 1992, 2:223.

⁶⁵² Ibid., 2:224.

⁶⁵³ Ibid., 2:226.

⁶⁵⁴ Mantoux, *The Deliberations of the Council of Four (March 24-June 28, 1919)*, 1992, 1:282.

own destiny”⁶⁵⁵ was compromised and significant minorities were left under the rule of an alien nationality, the powers attempted to provide a solution in the form of Minority Treaties. The purpose of these treaties was to rectify violations of the principle of self-determination by guaranteeing the basic rights of religious and ethnic minorities that resulted from territorial boundary change, institutionalising standards of treatment to be overseen by the Council of the League of Nations. The Minority Treaty regime was much criticised by the states which it applied to on two grounds: first, that it violated the principle of the equality of states (given that the system was not extended to cover all states); and, second, that it violated the self-determination of the states to which it applied given that it subjected those states to international scrutiny of its domestic practices. The asymmetrical relations of control institutionalised by the Minority Treaties were justified on the basis of the relative fitness of peoples for the responsibilities associated with self-determination. As Charles Seymour, head of the Austro-Hungarian Division of the US Commission to Negotiate Peace at the conference noted, “new dangers” had been created in the territorial changes:

It is undeniable that a considerable stretch of territory has been Balkanized, that in the place of a co-ordinating whole we find a group of small states, which by temper and experience are not as yet well qualified to meet the contingencies of the future with that moderation and spirit of compromise which is essential to tranquillity and progress.⁶⁵⁶

Although in the US, Seymour claimed, people thought “little of the dangers apt to proceed from a racial *mélange*”, in “this part of Europe, if a man speaks a different language from that of his neighbor, he becomes almost necessarily his enemy”.⁶⁵⁷ Despite the imposition of Minority Treaties, the decisions of the Paris Peace Conference had enabled the nationalities of the former Austro-Hungarian empire to “secure their freedom”; in the place of a “semi-feudal system...imposing the edicts of hostile minorities upon subject majorities” was “political power granted in accordance with popular desires”.⁶⁵⁸ The Minority Treaties were an example, then of the Covenant of the League of Nations imperfectly expressing the Wilsonian ideal of self-mastery, which held that the populations of states had “a right to determine their own destiny and their own form of government and their own policy”.⁶⁵⁹ Nonetheless, the reason for this imperfect realisation of the self-government of peoples was the result of the imperative to ensure responsible government; the Minority Treaties were, then, according to the logic of the Paternalistic Idea an expression of the development of state

⁶⁵⁵ House and Seymour, *What Really Happend at Paris*, 90.

⁶⁵⁶ *Ibid.*, 107.

⁶⁵⁷ *Ibid.*, 107–8.

⁶⁵⁸ *Ibid.*, 107.

⁶⁵⁹ Cassese, *Self-Determination of Peoples*, 20.

freedom not its compromise.

The idea that varying 'tempers and experience' of different peoples demanded different levels of external control was most clearly expressed in the Mandates System of the League of Nations that was established in Paris. While certain areas of Europe were granted independence but with continued oversight, the extra-European territories of the defeated empires were deemed to require even greater asymmetrical relations of control. Article 22 of the Covenant of the League of Nations stated that in territories "inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation".⁶⁶⁰ The "best method" of ensuring this development was "that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility".⁶⁶¹

Even within the Mandate System, there was a hierarchy of levels of autonomy; the "character of the mandate" differed "according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances".⁶⁶² The territories of the Ottoman Empire were deemed to have "reached a stage of development where their existence as independent nations" could "be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone". Central African peoples were "are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion". Territories in South-West Africa and the some Pacific islands, meanwhile, were deemed "best administered under the laws of the Mandatory as integral portions of its territory".⁶⁶³ While continuing the dependency of these territories, the Mandates System did imply the future independence of such peoples once their 'tutelage' from the 'advanced nations' had sufficiently progressed. However, this process was understood to be a slow one of evolution, not revolution. Although Wilson's original draft for the Covenant of the League of Nations had explicitly provided for the possibility of "territorial readjustments" on the basis of changes in "racial conditions",⁶⁶⁴ the final

⁶⁶⁰ 'The Covenant of the League of Nations' (League of Nations, 28 April 1919), http://avalon.law.yale.edu/20th_century/leagcov.asp Article 22.

⁶⁶¹ Ibid. Article 22.

⁶⁶² Ibid. Article 22.

⁶⁶³ Ibid. Article 22.

⁶⁶⁴ Lansing, *The Peace Negotiations, a Personal Narrative*, 93. The draft Article III read: 'The Contracting Powers unite guaranteeing to each other political independence and territorial integrity; but it is understood between them that such territorial readjustments, if any, as may in the future become necessary by reason of changes

draft of the Covenant had removed all reference to territorial adjustment on the basis of self-determination.

The Mandates System was an expression of an idea of state freedom that justified a variety of relations of control, ranging from, at one extreme, equality between ‘responsible’ states to, at the other extreme, formal dependence between those states and peoples that were deemed to lack the necessary development for independence. It has been claimed that the post-WWI order had “little formal institutional hierarchy”.⁶⁶⁵ While that claim is debatably accurate with respect to the distribution of power between independent states within the League of Nations, hierarchical relations of control were, as we have seen, a fundamental element of the Paternalistic Idea of state freedom that was dominant in Versailles. That hierarchy manifested itself both in the institutions of the League of Nations and the process through which they were created. While the normative ideal of the Paternalistic Idea may have been an equality of states and peoples, beliefs about “racial and civilizational superiority”⁶⁶⁶ nonetheless meant hierarchical relations of control permeated throughout the Paris Peace Conference and the international order it constituted. Not only did the great powers take upon themselves the weight of ‘responsibility’ of constructing the peace, but the League of Nations instituted relations of dependency between mandates and mandatory powers. However, the Paternalistic Idea did not legitimise *license* on the part of the Council of Four to dictate to smaller states in any way they wished. An important element of the Paternalistic Idea was that the control of the more civilised over the less civilised was exercised—in theory at least—in the interests of dependent peoples⁶⁶⁷ and with their (responsible) independence as the ultimate goal. In the next section, I show how the justification of the subjugation of peoples in the name of their freedom was challenged and ultimately discredited in by anti-colonial states in the forum of the United Nations.

Self-Determination and decolonisation

We saw in the last section that while the normative goal of the Paternalistic Idea was that states should be self-determining and free to live their own life, the necessary conditions for this goal to be

in present racial conditions and aspirations or present social and political relationships, pursuant to the principle of self-determination...may be effected if agreeable to those peoples’.

⁶⁶⁵ Ikenberry, ‘Liberal Internationalism 3.0’, 75.

⁶⁶⁶ Ibid.

⁶⁶⁷ What those interests were, of course, were determined by the self-appointed representatives of civilisation.

realised differed depending on the fitness of a people for self-government. The Paternalistic Idea of state freedom legitimised, therefore, both great power management and relations of dependence on the grounds that they facilitated the realisation of the freedom of states. As we saw in Chapter Four, the Categorical and Civil Ideas of state freedom challenged the notion that the freedom of materially weak states could be advanced through the control of the great powers. In these ideas of state freedom, the power of large states was associated with the subjugation of the small and was threatening to their freedom. Although the Civil Idea provided for a limited inequality of rights in the international system, those rights were only granted provided that they furthered the self-mastery of small states and that their responsible exercise was ensured by the participation of all states in the processes of managing international relations.

When states came together in San Francisco in 1945 to create the UN, the Civil Idea prevailed, reconfiguring relations of control between states. The Civil Idea of state freedom did not, however, address the extreme inequality between states and dependent peoples that was legitimated by the Paternalistic idea; the idea that, for some peoples, freedom could be better realised through tutelage than independence endured. In 1945, the population of mandates, colonies and protectorates numbered 600 million people,⁶⁶⁸ and the new international organisation perpetuated their dependence in the form of trusteeships and Non-Self-Governing Territories (NSGTs).

Although the delegates of San Francisco did not challenge the racial hierarchies that were expressed in world politics through relations of dependency, the creation of the UN was nonetheless a significant moment in the development of an idea of state freedom that was incompatible with colonialism. As we saw in the previous section, the Mandates System of the League of Nations justified the dependency of peoples on the basis that it was in their interest and necessary for the development of their fitness for independent statehood. The UN reinforced that justification for dependency. The Mandates System was continued in the International Trusteeship System, which declared as one of its basic objectives the “progressive development” of the populations of trust territories “towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned”.⁶⁶⁹ The Mandates System, however, only applied to the former colonial territories of the defeated empires. In San Francisco, the delegates also institutionalised UN oversight of ‘Non-Self-

⁶⁶⁸ Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention* (Cambridge University Press, 2002), 292.

⁶⁶⁹ United Nations, ‘Charter of the United Nations’, 26 June 1945, chap. XII, <http://www.un.org/en/documents/charter/chapter1.shtml> Article 76(b).

Governing Territories’ — “territories whose peoples have not yet attained a full measure of self-government”.⁶⁷⁰ These NSGTs⁶⁷¹ were to be administered in such a way as “to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement”.⁶⁷² The UN system, then, extended the obligation to promote self-government to the empires that had been untouched by World War I and uncompromised by the Paris Peace Conference. In doing so, it implicitly called into question the idea that a hierarchy of peoples was a natural and inevitable state of affairs.

A second way in which the San Francisco conference laid the groundwork for a challenge to colonial ideas was through the ways in which the Civil Idea of state freedom itself constituted a shift in the ideational structure of the international system. As we have seen, the Civil Idea called into question the moral superiority of the traditional great powers, emphasising pluralism and the moral contribution of small states. At the core of the Civil Idea—and the Categorical Idea before it—was the notion that freedom could only grow from within states, rather than be propagated from without. Questioning the validity of great power claims to advance the self-mastery of other states through relations of domination made it a much shorter leap to make the same claim with respect to political communities that had been denied sovereign statehood. Nonetheless, the Civil Idea stopped short of making that leap and the core logic of the Paternalistic Idea endured in Trust Territories and NSGTs. As Lord Cranborne, a British delegate, argued at San Francisco: “What do these people want? They want liberty. Let us give them liberty. They want justice? Let us give them justice...Let us help them climb up the rungs of the ladder of self-government”.⁶⁷³

Importantly, the Civil Idea of state freedom did, however, create a forum within which the idea that dependency could facilitate freedom could be challenged. As we saw in Chapter Four, one of the necessary conditions for the realisation of the self-mastery of states in the Civil Idea is the active participation of all states in international governance. In accordance with this requirement, the UN system gave plentiful opportunity for existing states to challenge the international system’s on-going relations of dependency. In the 1950s, states that had recently gained independence and become members of the UN grasped that opportunity, putting forward arguments about self-determination

⁶⁷⁰ Ibid., chap. XI Article 73.

⁶⁷¹ NSGTs were undefined at San Francisco, but which were understood as referring to territories traditionally understood as colonies A. Rigo-Sureda, *Evolution of the Right to Self-Determination: A Study of United Nations Practice* (Leiden, The Netherlands: A. W. Sijthoff, 1973), 102.

⁶⁷² United Nations, ‘Charter of the United Nations’, chap. XI Article 73(b).

⁶⁷³ Quoted in Crawford, *Argument and Change in World Politics*, 310.

that ushered in a radical reconfiguration of legitimate relations of control in the international system, delegitimising colonialism and leading to the collapse of the remaining European empires. While there were many elements to this profound shift in the ideational structure of the international system,⁶⁷⁴ here I argue that a change in the prevailing idea of state freedom was significant among them.

In the early years of the UN, the settings for debates about self-determination were the negotiations to create legally binding provisions enshrining the rights proclaimed in the Universal Declaration of Human Rights. The negotiations of these provisions—which would become the International Covenant on Civil and Political Rights and the International Covenant on Economic and Social Rights—became a key forum for debate about self-determination after, first, the Soviet Union and, subsequently, Afghanistan and Saudi Arabia proposed that the Commission on Human Rights should consider how to “ensure the right of peoples and nations to self-determination”.⁶⁷⁵ The subsequent debates about self-determination⁶⁷⁶ largely centred on the issue of colonialism. In these forums, and at the Asia-Africa Conference that was held in Bandung, Indonesia, in 1955, an idea of state freedom was identifiable that was incompatible with the notion that the freedom of political communities could be advanced through colonialism and dependency. The core of the arguments advanced by post-colonial and communist states was an unconditional association of independence with freedom and dependency with slavery. Carrying forward the Wilsonian association of states and peoples but transforming its implications, the populations of colonial and Trust territories were conceived of as distinct political communities that had lost their independence as a result of foreign ‘aggression’. Effectively, therefore, dependent peoples were states-in-waiting, whose freedom was being denied, not advanced, by on-going dependency. In this idea of state freedom, the state, as an agent, was identified with the ‘indigenous’ population of a particular territory, understood in contrast to rulers of an ‘alien’ geographical and cultural provenance. The self-mastery of these states-in-waiting consisted of the freedom of statehood itself; political independence and freedom from foreign rule. It is because the core of this idea of state freedom was the rejection of dependency on alien rule, I term it the Independence Idea of state freedom. The necessary condition for the realisation of the self-mastery of states was the immediate end to enforced dependency and colonial rule. The

⁶⁷⁴ For some prominent arguments about the role of ideas in the collapse of colonialism see Crawford, *Argument and Change in World Politics*; Christian Reus-Smit, *Individual Rights and the Making of the International System* (Cambridge: Cambridge University Press, 2013), chap. 5; Robert H. Jackson, ‘The Weight of Ideas in Decolonization: Normative Change in International Relations’, in *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, ed. Judith Goldstein and Robert O. Keohane (Cornell University Press, 1993).

⁶⁷⁵ Cassese, *Self-Determination of Peoples*, 48.

⁶⁷⁶ These debates took place primarily in the Commission on Human Rights and the Third Committee of the General Assembly, but also in plenary sessions of the Economic and Social Council.

Independence Idea of state freedom had radical implications, therefore, for legitimate interstate relations of control.

Unsurprisingly, the Independence Idea of state freedom was resisted by colonial powers and their allies. In the politics of legitimacy regarding colonial relations of dependence that was prompted by the Independence Idea of state freedom, conservative powers advanced three main arguments pertaining to the freedom of states. The first was to cast doubt on the compatibility of the self-determination of peoples with the freedom of existing states, either because it implied UN interference in the domestic affairs of states, or because it implied the secession of minorities within all states, threatening their territorial integrity. The second was to attempt to deflect attention from the colonial issue by broadening the scope of self-determination to states themselves, invoking the Civil Idea of state freedom and criticising informal Soviet domination. The third notable argument about state freedom made by conservative states was a re-articulation of the paternalist logic that unconditional independence for political communities was a threat to freedom, rather than its expression. Although the traditional justification of civilisation was not prominent, arguments about *responsibility* took a new form, being linked to the fulfilment of human rights.

Human rights were highly prominent in the arguments advanced by colonial states—the right to self-determination was in part justified as a pre-requisite for the fulfilment of other human rights⁶⁷⁷—and the potential for their indigenous repression was a principal axis of debate between recently independent states both within the UN and at the Bandung Conference. Ultimately, however, the dominant position of anti-colonial states was that this danger had to be accepted because freedom was impossible without independence, a position which led to demands for a radical reconfiguration of relations of control.

The freedom of statehood and the slavery of 'sacred trust'

In the UN debates about self-determination of the 1950s, post-colonial states asserted a historic sea-change in world opinion regarding the justifications for colonialism and celebrated what they claimed to be an unstoppable rise in the desire of colonial subjects for independence. Colonialism was repeatedly criticised as a form of “slavery”, and contrasted with the freedom realised through

⁶⁷⁷ Reus-Smit, *Individual Rights and the Making of the International System*, chap. 5.

the recognition of a people as an independent state.⁶⁷⁸ Self-determination meant, it was argued, the absence of foreign domination, and was necessary to “prevent weak peoples from being dominated by strong”.⁶⁷⁹ Traditional justifications for colonialism based on the fitness for self-government were tackled head on and it was asserted that independence should be granted “as soon as the political consciousness of a people had been fully awakened and they had expressed a desire to be free of the presence of the alien Power”.⁶⁸⁰ Dependence did not augment the capacity for self-government, rather peoples “could learn to administer their own affairs only when they were given an opportunity to do so”.⁶⁸¹ Nations that had been “enslaved” were struggling to “regain their lost freedom in order to rise to heights which could never be reached in conditions of servitude”.⁶⁸²

The post-colonial states were joined in expressing such sentiments by almost all of the communist states and many Latin American states. The representative of the Soviet Union claimed that the “time had come for those who still clung to the outworn ideas of colonialism to...realise that the world was no longer divided between a master race and all the rest”⁶⁸³, while the Polish representative claimed that many countries “knew that freedom of the individual was a snare and a delusion as long as the nation of which he was a part was not free”.⁶⁸⁴ Venezuela also attacked the logic of the Paternalist Idea of state freedom, arguing that “the mere fact that a people had expressed a desire for self-government should be recognised as sufficient evidence that they were ready for it”, and that “no people desired to remain forever in a position of subordination”.⁶⁸⁵

In attempting to subvert these calls for the independence of all peoples, the European colonial powers put forward numerous critiques of a revolutionary approach to the right of self-determination. Prominent among them was to subordinate the principle of self-determination to the goals of peace and stability, thus implicitly casting self-determination as a threat to the Civil Idea of state freedom institutionalised in San Francisco. Belgium recalled Hitler's use of the term, hence linking the term to the moral horrors and global instability of World War II,⁶⁸⁶ and the UK stressed that self-determination was not as paramount a political principle as the “maintenance of

⁶⁷⁸ Liberia in UNGA 3rd Committee, ‘A/C.3/SR.366’, 12 December 1951, para. 26; India in ECOSOC Commission on Human Rights, ‘E/CN.4/SR.474’, 7 May 1954, 6; India in UNGA 3rd Committee, ‘A/C.3/SR.447’, 18 November 1952, 176.

⁶⁷⁹ Pakistan in ECOSOC Commission on Human Rights, ‘E/CN.4/SR.256’, 1 May 1952, 11; ECOSOC Commission on Human Rights, ‘E/CN.4/SR.253’, 30 April 1952, 13.

⁶⁸⁰ Afghanistan in UNGA 3rd Committee, ‘A/C.3/SR.445’, 14 November 1952, 161.

⁶⁸¹ Ibid.

⁶⁸² India in ECOSOC Commission on Human Rights, ‘E/CN.4/SR.474’, 6.

⁶⁸³ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.254’, 30 April 1952, 6.

⁶⁸⁴ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.255’, 9 May 1952, 6.

⁶⁸⁵ UNGA 3rd Committee, ‘A/C.3/SR.451’, 21 November 1952, 205.

⁶⁸⁶ UNGA 3rd Committee, ‘A/C.3/SR.371’, 20 December 1951, 144.

international peace”.⁶⁸⁷ According to these states, the existing regime of gradual evolution toward self-government in accordance with a people’s readiness for it was the optimum means of ensuring both self-determination and peace and stability. According to the UK representative, the regime of NSGTs and Trusteeships was “in harmony” with the principle of self-determination, which, in any case, should not be employed in a way that would “introduce new or perpetuate old elements of discord”.⁶⁸⁸ She also defended the traditional idea of a hierarchy of peoples, emphasising the UN Charter’s provision “for the promotion of the advancement of peoples ‘as may be appropriate to the particular circumstances of each territory and its peoples’”.⁶⁸⁹ In the view of the UK, “education and the existence of democratic institutions were therefore a prerequisite to the application of the principle of self-determination”.

In invoking the ideas about responsibility that composed part of the Paternalistic and Civil Ideas of state freedom, the UK representative implied that the discrediting of the existing system risked unleashing a dangerous form of freedom:

It must be stressed that there was a danger in separating rights from duties. The exercise of the right of one people or one individual to liberty could not be allowed to infringe the liberty of another; if it did so, it became an abuse of the right. A people seeking to exercise its right of self-determination must take into account its obligations and duties towards its neighbours, or anarchy would result.⁶⁹⁰

It was in this way, via a hierarchical understanding of peoples’ readiness for self-government that the colonial powers linked self-determination with instability and conflict. It was much wiser, therefore, to be faithful to the regime of NSGTs “in which one people carried out, for the benefit of another, the sacred trust defined in Chapter XI of the Charter of the United Nations”.⁶⁹¹ This was not a denial of freedom, the French delegate asserted, but rather a proper appreciation of what it consisted:

Although France had always been in the vanguard of the struggle for political freedoms, and therefore whole-heartedly supported to right of peoples to self-determination, it was also aware that the progressive development of free political institutions was subject to special conditions in each territory and to the varying degrees of development of their populations.⁶⁹²

⁶⁸⁷ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.475’, 11 May 1954, 9.

⁶⁸⁸ UNGA 3rd Committee, ‘A/C.3/SR.444’, 13 November 1952, 156.

⁶⁸⁹ *Ibid.*, 157.

⁶⁹⁰ *Ibid.*

⁶⁹¹ Belgium UNGA 3rd Committee, ‘A/C.3/SR.446’, 17 November 1952, 167.

⁶⁹² UNGA 3rd Committee, ‘A/C.3/SR.445’, 162.

Alongside these arguments of the moral worth of colonialism and the danger to peace and security presented by self-determination, sat arguments regarding the rights of existing states. The UK representative in the Commission on Human Rights stated he “could not agree to interpret a political principle, even one of great moral force, as a human right, and by that means encourage an intervention by the United Nations that the Charter, which bound its States Members, forbade”.⁶⁹³ In the Third Committee, France also rejected the draft resolution on the grounds that it was a “fundamental violation of the principle of the equality of all Member States” because it discriminated between states administering NSGTs and those not administering them and because it made possible “United Nations interference in the domestic affairs of a sovereign State”.⁶⁹⁴ The UK argued that the references to “peoples” in the UN Charter were to states and, as such, the Charter references to self-determination “would therefore seem to be to the recognition of the sovereignty of sovereign states and the obligation of such States to respect the sovereignty of other states”.⁶⁹⁵ Belgium asserted that it came down to a state being “master of its own affairs” and that the “subject of internal self-determination was the nation already constituted, the State”. The colonial powers were arguing, then, that colonial territories were an integral part of the state. For the UN to interfere with them was for it to engage in the kind of violation of the self-mastery of states that was agreed in San Francisco to be illegitimate.

The self-determination of states and the Civil Idea of state freedom

As it became clear that the issue of self-determination would not be swept under the carpet, the main vein of debate in the Third Committee and the Commission on Human Rights came to focus on the scope of self-determination. Proclaimed in the UN Charter to be a universal principle applicable to all ‘peoples’, colonial states pushed for the recognition of that universality in any reference to self-determination in UN human rights instruments. This was a tactical move designed to raise the thorny issue of ethnic minorities—a problem for many states that were not colonial powers—in order to discourage the inclusion of self-determination in the Covenants. Other representatives argued that self-determination also applied to independent states that were subject to the informal domination of other states. In a reflection of the Cold War battle-lines that were drawn in this period, communist states pushed for the linking of self-determination and colonialism, the US and its allies invoked the Civil Idea of state freedom and the right of states to determine their own destiny.

⁶⁹³ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.475’, 10.

⁶⁹⁴ UNGA 3rd Committee, ‘A/C.3/SR.445’, 162.

⁶⁹⁵ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.253’, 6.

For the newly independent, post-colonial states, the most pressing application of the right to self-determination was to peoples that did not have formal independence. According to them, any article on self-determination in the Covenants ought to recognise its primary applicability to NSGTs—peoples who, under the UN Charter, were categorised as having “not yet attained a full measure of self-government”.

At the Sixth Session of the Third Committee of the General Assembly, the Belgian representative made a speech that was in many respects typical of the “offensive” tactics of the European colonial powers and their allies as it became clear that the challenge to the old structure of international relations would be sustained.⁶⁹⁶ In it, he criticised the employment of the self-determination clause “in a negative sense, as a weapon for use against the colonial Powers”.⁶⁹⁷ In a thinly veiled criticism of the Soviet Union and its allies, he incorporated a broader constellation of rights into the meaning of self-determination, claiming that “[s]ome of the representatives who had expatiated most eloquently on the necessity of introducing various rights into the covenant disregarded the fact that in their own countries certain political parties were forbidden, religious groups were suppressed and the right of habeas corpus was non-existent”.⁶⁹⁸ He went on to invoke the thorny issue of minorities, stating that “the right of self-determination was also being advocated by countries in which national minorities were oppressed and where the right of secession did not exist”.⁶⁹⁹ “It was impossible”, he claimed, “to speak of the right of self-determination without also providing for the right of secession”, before asserting that the provision of self-determination ought to be made “conditional on the degree of political maturity prevailing in the country concerned”.⁷⁰⁰ The linking of self-determination conceptually to potential problem issues for non-colonial states, and the assertion that self-determination was not a right held automatically by all peoples but rather conditional on their readiness were both frequent rhetorical moves by colonial states such as Belgium, France and the UK.

In the Eighth Session of the Commission on Human Rights, the Lebanese representative, responding to a further Belgian reference to minorities, claimed that the Belgian representative “had given the impression that the main purpose of the right to self-determination was to promote that right in relation to minorities within countries”. The issue of minorities, however, was according to the Lebanese representative primarily one for European states, while the states that had “raised the

⁶⁹⁶ Cassese, *Self-Determination of Peoples*, 46.

⁶⁹⁷ UNGA 3rd Committee, ‘A/C.3/SR.361’, 7 December 1951, 84.

⁶⁹⁸ Ibid.

⁶⁹⁹ Ibid.

⁷⁰⁰ Ibid.

question in the General Assembly”—leading to self-determination being examined by the Commission—“were not European”. “It was therefore understandable”, in his opinion, “that the pivot of the whole problem was not the position of minorities, but that of countries that lost their independence as a result of aggression. The main issue was that of the Non-Self-Governing Territories”.⁷⁰¹

The back-and-forth over the scope of self-determination was a common refrain in the discussions regarding the Covenants. In the Seventh Session of the Third Committee, for example, the representative of New Zealand claimed that there were “oppressed minorities and indeed whole nations, to whose peoples the right of self-determination was denied, and which enjoyed none of the protection conferred by the Charter of the United Nations upon the inhabitants of Non-self-Governing and Trust Territories”. In addition, there were “also many backward peoples who, through an accident of geography, lived within the borders of a metropolitan State and whose living conditions were no better than those of the inhabitants of Non-self-Governing Territories. Surely those two categories of peoples were”, he opined, “more deserving of special attention”.⁷⁰²

Beyond the question of minorities, the self-mastery of states as understood in the Civil Idea of state freedom was also a prominent vein of argumentation. As we saw in Chapter Four, in the Civil Idea a state was self-mastering when it was free to set its own direction without the interference of other states. While in San Francisco, that idea was promoted principally by materially weaker states in order to guard against the domination of the great powers, in the various forums of the United Nations, it was used as a rhetorical tool used by colonial powers and their supporters to help sever the necessary link the anti-colonial states had asserted between independence and freedom.

The UK noted that “self-determination was a universal principle”, applicable “not only to the peoples of dependent territories but also to the peoples of metropolitan territories and of some other nations which, like certain countries of central Europe, were theoretically independent but in fact controlled by another state”.⁷⁰³ According to the UK representatives, it was not only the populations of NSGTs that had “no control over their destinies”.⁷⁰⁴ In fact, “the peoples in dependent territories were far more free than the independent and sovereign peoples of many Member States”.⁷⁰⁵ The UK continued to reject the unconditional association between independence and freedom, arguing that

⁷⁰¹ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.254’, 9.

⁷⁰² UNGA 3rd Committee, ‘A/C.3/SR.450’, 20 November 1952, 195.

⁷⁰³ UNGA 3rd Committee, ‘A/C.3/SR.456’, 26 November 1952, 229.

⁷⁰⁴ UNGA 3rd Committee, ‘A/C.3/SR.890’, 24 November 1958, 270.

⁷⁰⁵ Economic and Social Council, ‘E/SR.666’, 30 July 1952, 730.

“real freedom” was rooted in “education, trained administrators and the general ability of the body politics to absorb and make effective use of modern techniques. It was not enough to strive towards total independence regardless of its nature. The only worthwhile goal was good independence”.⁷⁰⁶ The UK then linked the anti-colonial argument to pernicious communist manipulation, linking it to those who had “a vested interest in propagating slavery by the simple method of calling it freedom”.⁷⁰⁷

The US expanded on the argument that an important application of the principle of self-determination was to states that were being denied their freedom through “political subjugation” to a powerful neighbouring state.⁷⁰⁸ Although self-determination should be applied “progressively” to dependent peoples, it was “deplorable that one country, which posed as the champion of the colonial peoples, would be pursuing imperialist aims and extending its domination over territories beyond its frontiers”.⁷⁰⁹ The US also hinted that Soviet-sponsored agitation within states was a danger to their self-mastery; self-determination was also applicable to “peoples currently self-governing but living under the constant threat of foreign imperialism, which was striving to bring about their disintegration from within as well as from without by aggravating their difficulties”.⁷¹⁰ States needed to be protected from “external pressure, threat, the use of force and subversive activities”.⁷¹¹ It was only through this protection, and through the exercise of self-determination “with proper regard for the rights of other States and peoples”⁷¹² that “the desire of every people to determine its own destiny free from dictation or control by others” could be realised.⁷¹³

In the wake of the Tito-Stalin split, similar calls for the self-mastery of states of the Civil Idea were made by Yugoslavia. The Yugoslav representative claimed that “small nations were the prey of other States’ aggressive designs” and that “although Yugoslavia had won its independence at enormous price...it had to defend itself against external pressure of all kinds”.⁷¹⁴ Self-determination was a right that “belonged to both NSGTs and sovereign peoples as long as their independence could be threatened by other States”.⁷¹⁵

⁷⁰⁶ Ibid., 731.

⁷⁰⁷ Ibid.

⁷⁰⁸ UNGA 3rd Committee, ‘A/C.3/SR.823’, 28 November 1957, 299.

⁷⁰⁹ UNGA 3rd Committee, ‘A/C.3/SR.364’, 10 December 1951, 105.

⁷¹⁰ Ibid.

⁷¹¹ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.256’, 6.

⁷¹² Ibid.

⁷¹³ UNGA 3rd Committee, ‘A/C.3/SR.447’, 174.

⁷¹⁴ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.256’, 7.

⁷¹⁵ Ibid., 8.

Latin American states also continued their tradition of advocacy of states' right to be self-mastering in the sense of being able to live their own lives without the domination of other states. The Mexican representative argued that states "should view the principle of the right of self-determination of peoples in its highest sociological sense, as affecting not only dependent peoples but all the peoples of the world". He argued that there "were many independent peoples in the contemporary world which were not yet complete masters of their destiny and there were others which were threatened with the loss of their freedom".⁷¹⁶ Self-determination did not stop at political independence, but was rather the right of a state to enjoy "genuine sovereignty"; the "exercise of self-determination in the "political, economic, social and cultural fields", and the "power to dispose of its own natural resources and to preserve and develop its cultural heritage".⁷¹⁷ Following independence, "the resulting entity possessed an inviolable and indivisible personality with its own constitution and institutions. It was a principle of international law that States must be taken as they were; self-determination, once exercised, had to be respected".⁷¹⁸

Latin American states feared that as "the domination [colonial powers] had once exercised" was "slipping from their grasp", their self-mastery was at risk from a "subtler and much more dangerous form" of colonialism—that of "economic domination by international capital".⁷¹⁹ The linking of self-determination with economic independence and a state's control over its own resources was the main thrust of Latin American contributions to the debates on self-determination, and Chile was successful in adding a clause to the Covenants that covered the freedom of peoples to "freely dispose of their natural wealth and resources". Chile had argued that a "sovereign people should be free to exercise its sovereign rights in every sphere and to dispose freely of its own natural resources. A country could be a political as well as an economic satellite, and the United Nations should help all States to free themselves from such servitude" (CHR8th p49). It was a clear that the majority view among Latin American states was that "in internal affairs, the peoples and nations had an absolute right to self-determination, which included the right to choose their own form of government and sovereignty over their natural resources".⁷²⁰ By gaining international recognition of the right of states over their natural resources, the Latin American states were successful in buttressing and extending the realm of the self-mastery of states of the Civil Idea of state freedom.

⁷¹⁶ UNGA 3rd Committee, 'A/C.3/SR.447', 173.

⁷¹⁷ Ibid.

⁷¹⁸ UNGA 3rd Committee, 'A/C.3/SR.457', 28 November 1952, 239.

⁷¹⁹ UNGA 3rd Committee, 'A/C.3/SR.450', 198.

⁷²⁰ UNGA 3rd Committee, 'A/C.3/SR.648', 31 October 1955, 119.

The conservative states successfully broadened the debate about self-determination to include states as a referent object and the Latin American states successfully gained recognition for states' right over their natural resources. This broadening of the debate did not mean, however, that communist and post-colonial states relented in their assertion of a link between independence and freedom or their claim that dependent peoples were in special need of self-determination. The Indonesian representative claimed "the crux of the question" to be "not the position of minorities, but that of countries which had lost their independence as the result of aggression". It was "perfectly clear" to the representative that "the peoples concerned were the inhabitants of colonies administered by foreign peoples, absolutely different in race, culture and geographical habitat", and that "steps should be taken as soon as possible to give those peoples their freedom".⁷²¹ In the same meeting the representative of the Soviet Union claimed it to be "obvious that the principle of self-determination of peoples had to be applied first in the colonies, the peoples of which had long been fighting for independence".⁷²² Syria, likewise, saw the "the awakening of subject peoples" as "one of the main characteristics of the twentieth century" and interpreted self-determination as principally applying to "the peoples which had not enjoyed the right to self-determination at the time of the drafting of the Charter, that is, the peoples of the Non-self-Governing Territories and Trust Territories".⁷²³ He later stated that "its first application must be to the populations of Non-Self-Governing Territories", and that they "should therefore be mentioned expressly" in the covenants.⁷²⁴

Apart from the early tactical arguments by colonial powers, the application of self-determination to ethnic minorities and the concomitant right to secession was consistently rejected by almost every state. According to the anti-colonialist states, however, colonial peoples were victims of aggression subjected to rule that was alien both geographically and sociologically. Hence colonial territories were not integral parts of existing states, but rather states-in-waiting that were being denied even the basic freedom of statehood. In order to defend colonial relations of dependence, colonial powers and their allies argued against the special application of self-determination to dependent peoples on two principal grounds. First, they attempted to weaken the link between independence and freedom by invoking the Civil Idea of state freedom and criticising informal domination of the Soviet Union over the affairs of satellite communist states. Second, they reasserted the link between colonial 'tutelage' and freedom, asserting the need for 'real freedom' and 'good independence' rather than the insidious domination of the Soviet Union that would surely await peoples if they

⁷²¹ UNGA 3rd Committee, 'A/C.3/SR.451', 202.

⁷²² Ibid., 203.

⁷²³ UNGA 3rd Committee, 'A/C.3/SR.452', 22 November 1952, 209.

⁷²⁴ UNGA 3rd Committee, 'A/C.3/SR.458', 28 November 1952, 244.

were cast adrift from their 'sacred trust'. Neither of these arguments, however, enjoyed much legitimacy in the eyes of the anti-colonial states.

Self-determination and human rights

The link between human rights and self-determination was made repeatedly in the UN throughout the 1950s. As noted above, it was in debates about the International Covenants that discussion about self-determination was first raised. As well as the setting, however, human rights also provided an important justification for the self-determination of peoples. As Roland Burke has put it: “[a]lthough national independence was the highest priority [for the anticolonial bloc], conventional human rights were almost always the central justification for recognition of a right to self-determination”.⁷²⁵ Christian Reus-Smit has shown that it was by “grafting” the right of self-determination to nascent human rights norms, and reasserting self-determination in “universal terms” that they “undermined the foundations of empire”.⁷²⁶ Even in the early debates in the United Nations, the tight relationship between self-determination and other human rights was repeatedly emphasised. In the Sixth Session of the Third Committee (1951), the Lebanese representative claimed that the “further people progressed towards self-determination the more they would respect human rights and *vice versa*”.⁷²⁷ In the Seventh Session, the representative of Pakistan affirmed that individual rights and self-determination “complimented each other”; in the NSGTs human beings were being discriminated against with respect to laws and the exercise of “political, economic, social and cultural rights on grounds of race, colour, religion or national origin”, he argued. “Such discrimination could be ended” he concluded, “only if a people was master of its own destiny”.⁷²⁸ In the same session, the Indonesian representative claimed self-determination to be a “fundamental condition of the exercise of other human rights”. In the Commission on Human Rights, representatives from newly independent member states went beyond merely linking the realisation of collective and individual rights, and explicitly referenced threats to self-determination from both informal foreign domination and domestic authoritarianism. In the Commission's Eighth Session, Lebanon noted that there were “peoples deprived by their own government of an opportunity to manage their own affairs” and that “national governments were imposed on some peoples by foreign rule”.⁷²⁹ The Indian representative stated that if the right to self-determination “meant the

⁷²⁵ Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia: University of Pennsylvania Press, 2010), 39.

⁷²⁶ Reus-Smit, *Individual Rights and the Making of the International System*, 153.

⁷²⁷ UNGA 3rd Committee, ‘A/C.3/SR.370’, 19 December 1951, 138.

⁷²⁸ UNGA 3rd Committee, ‘A/C.3/SR.448’, 18 November 1952, 180.

⁷²⁹ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.254’, 9.

right of peoples to decide for themselves in political, social economic and cultural matters, it could be averred that such a right was recognised in every truly democratic State and that it was only in the totalitarian States and in countries subjected to a colonial regime that it did not exist”.⁷³⁰

The former colonial peoples were not the only states in the UN to make an association between human rights, democracy and self-determination. Uruguay, for example, argued that limiting self-determination would “deprive other rights of reality”.⁷³¹ Mexico claimed it to be “essential to the exercise of individual rights”, arguing “the rights of the group necessarily supported and safeguarded the rights of the individual”. Therefore, “the right of self-determination of peoples was both the basis of, and derived from, individual human rights”.⁷³² In the Third Committee, the Costa Rican representative lamented the Committee’s neglect of the aspect of self-determination that pertained to “peoples living under the yoke of a domestic dictatorship”. “There were peoples”, she noted, “both in the eastern and in the western hemisphere, which were subjected to a regime of domestic tyranny”.⁷³³

Once the justification for self-determination on the basis of human rights, it became easier to argue that the right to self-determination ought to be a conditional right. In terms recalling the arguments about responsibility made by American Delegates at the Havana International Conference of American States, the US representative Eleanor Roosevelt argued:

[Just] as the concept of individual liberty carried to its logical extreme would mean anarchy, so the principle of self-determination given unrestricted application could only result in chaos. Human rights and the rights of peoples could find their fullest expression only in the context of responsibility.⁷³⁴

Although Roosevelt acknowledged “the desire of every people to determine its own destiny, free from dictation or control by others” to be “one of the most deep-seated of all human feelings”,⁷³⁵ that goal “could not be applied absolutely or rigidly”.⁷³⁶ Roosevelt also linked self-determination with democracy:

⁷³⁰ ECOSOC Commission on Human Rights, ‘E/CN.4/SR.256’, 4.

⁷³¹ UNGA 3rd Committee, ‘A/C.3/SR.365’, 11 December 1951, 110.

⁷³² UNGA 3rd Committee, ‘A/C.3/SR.447’, 173.

⁷³³ UNGA 3rd Committee, ‘A/C.3/SR.826’, 2 December 1957, 315.

⁷³⁴ UNGA 3rd Committee, ‘A/C.3/SR.447’, 175.

⁷³⁵ *Ibid.*, 174.

⁷³⁶ *Ibid.*, 175.

Self-determination is a process. It is in essence a process of democracy as contrasted with the process of dictation in any society developed or underdeveloped. It is, as has been said by other speakers, a process which involves responsibilities as well as rights. It is the process by which people develop their own laws and provide their own justice. This means not merely the right to compose a code of law, nor even the actual writing of a code; it also means general agreement to abide by the laws in the interests of society as a whole, even though one's individual or group freedoms are thereby limited.⁷³⁷

The repeated links made between human rights, democracy and self-determination by the US and other states⁷³⁸ were not dismissed out of hand by the post-colonial states. In fact, as Burke has noted, there was a notable debate within the post-colonial bloc as to whether self-determination was achieved through “democracy” or through “sovereignty”.⁷³⁹ This was a debate that had significant implications for ideas of state freedom; a strong association between self-determination and democracy would challenge the pluralism of the Independence Idea of state freedom, and would imply a direct association of the agency of the state with its population.

The different stances within the anti-colonial states on this issue were revealed in Bandung in 1955, when 29 states from Asia and Africa—many of which had only recently gained independence—came together for a landmark international conference to promote cooperation and oppose colonialism. The language of anti-colonialism was pervasive at the conference, with the formal imperialism of European powers consistently and unreservedly criticised. The speeches of delegates were replete with calls for the “freedom” of colonial and trusteeship territories at the “earliest date possible”.⁷⁴⁰ “Freedom and independence” appeared as a couplet in the language of the delegates throughout their addresses.⁷⁴¹ Alongside this talk of freedom mingled the language of human rights,⁷⁴² with almost half of the delegates mentioning human rights in their opening addresses to the conference.⁷⁴³

The connection between individual rights and self-determination that delegates made at Bandung was put under strain by the presence of communist China. The pronounced differences in

⁷³⁷ Micheline R Ishay, *The Human Rights Reader*, 2nd ed. (New York; Oxford: Routledge, 2007), 286.

⁷³⁸ See, for example UNGA 3rd Committee, ‘A/C.3/SR.444’, 158; UNGA 3rd Committee, ‘A/C.3/SR.450’, 197; UNGA 3rd Committee, ‘A/C.3/SR.644’, 26 October 1955, 99.

⁷³⁹ Burke, *Decolonization and the Evolution of International Human Rights*, 39.

⁷⁴⁰ Ethiopia in Republic of Indonesia Ministry of Foreign Affairs, *Asia-Africa Speaks from Bandung* (Jakarta, 1955), 73.

⁷⁴¹ Jordan in *ibid.*, 91; Libya in *ibid.*, 103.

⁷⁴² See, for example, Republic of Indonesia Ministry of Foreign Affairs, *Asia-Africa Speaks from Bandung*, 36, 46 58.

⁷⁴³ Burke, *Decolonization and the Evolution of International Human Rights*, 18.

interpretations of individual freedom between socialist and non-socialist states had already been in evidence in the UN debates on self-determination, and such differences showed again in Bandung. The Vietnamese delegation referred to the “menaces of dictatorial Communism”,⁷⁴⁴ and the Iraqi delegation lamented that under “communist domination” the “cries of pain” of “subjugated peoples” were not “permitted to be heard”.⁷⁴⁵ The criticism of communism prompted the Indian delegate Jawaharlal Nehru to advocate a limited understanding of self-determination that remained blind to the domestic situations within states. With remarkable frankness he argued:

If we look at this question in its entirety...and impartially, and if we examine the state of freedom, the state of individual or national freedom, the state of democratic liberty or democracy itself in the countries represented here, well, I feel many of us are lacking, terribly lacking...If we sit down and discuss these matters in all integrity in its entirety then we shall have to go very far and discuss how far countries represented here fulfil that noble standard which we laid down yesterday in the human rights or even the ordinary tenets of democracy and freedom.⁷⁴⁶

This intervention by Nehru, prompted by criticism of communism, exposed the tensions lurking behind the happy references to the mutually reinforcing relationship between self-determination and individual rights. Nehru's desire to side-step the delicate issue of individual freedom was not shared by all states represented at the conference. The Filipino delegate Carlos Romulo—who had been a participant in the negotiations of the Universal Declaration of Human Rights—delivered a sustained exposition of the relationship between individual freedom and its relationship to national political freedom. He rhetorically questioned whether “the struggle for national independence” was “the struggle to substitute a local oligarchy for the foreign oligarchy”,⁷⁴⁷ “replacing foreign tyranny by domestic tyranny”.⁷⁴⁸ For Romulo, “autocratic rule, control of the press and the police state” were “exactly the worst features of some colonialist systems”. The struggle for freedom, according to Romulo, was as “unending, constant, unremitting demand” and that, in the Philippines they were “seeking to build” “a society in which the freedom of our Republic will truly become the freedom of every one of its citizens”.⁷⁴⁹

The references to communism at Bandung did not only cast light on the differences between the delegates with respect to the relationship between states and their domestic populations, it also

⁷⁴⁴ Republic of Indonesia Ministry of Foreign Affairs, *Asia-Africa Speaks from Bandung*, 148.

⁷⁴⁵ *Ibid.*, 86.

⁷⁴⁶ Quoted in Burke, *Decolonization and the Evolution of International Human Rights*, 33.

⁷⁴⁷ Republic of Indonesia Ministry of Foreign Affairs, *Asia-Africa Speaks from Bandung*, 114.

⁷⁴⁸ *Ibid.*, 118.

⁷⁴⁹ *Ibid.*, 115.

demonstrated that many of the former colonial states were also concerned about the potential for international communist influence to compromise the freedom of states. The opinions expressed by delegates at Bandung echoed those put forward by the US and other states in the UN. Despite the presence of Communist China at Bandung and the aim of promoting cooperation at the conference, the Ceylonese delegate—Prime Minister John Kotelawala—nonetheless explicitly linked communist states and colonialism. He asserted that there was “another form of colonialism” alongside formal empire. He urged the delegates:

Think, for example, of those satellite States under Communist domination in Central and Eastern Europe—of Hungary, Rumania, Bulgaria, Albania, Czechoslovakia, Latvia, Lithuania, Estonia, and Poland. Are not these colonies as much as any of the colonial territories in Africa or Asia? And if we are united in our opposition to colonialism, should it not be our duty openly to declare our opposition to Soviet colonialism as much as to Western imperialism?⁷⁵⁰

Although Nehru replied denying that it made sense to talk of states whose independence had been recognised through membership of the UN as colonies, Kotelawala's position was supported by numerous other states. Pakistan, Turkey, Iraq and Lebanon reaffirmed the Ceylonese position, and Kotelawala recalls being “mobbed and congratulated by all” that evening, for the “service” he had done with his speech.⁷⁵¹

Kotelawala's direct reference to colonialism was controversial in the Bandung context, but his linking of the informal hierarchy between socialist states to colonialism was an example of a common move by the states at Bandung (and their representatives in the UN);⁷⁵² to link self-determination with the substantive, as well as formal, independence of states in a way consistent with the Civil Idea of state freedom. As Burke notes, alongside the frequent rights talk at Bandung, “non-interference and respect for state sovereignty were almost an obsession” for the leaders and other delegates. The emergence of post-colonial states was linked with a transcendence of power politics and a rejection of the privilege of the “Big Powers” to “decide of the destiny of other countries”.⁷⁵³ The Syrian opening speech was typical of this view, emphasising the “co-existence of

⁷⁵⁰ John Kotelawala, *An Asian Prime Minister's Story* (London: Harrap, 1956), 187.

⁷⁵¹ *Ibid.*, 187–8.

⁷⁵² Though the tape recording of the Iraqi opening speech was not clear enough for a transcription, the distributed text of speech suggested that “the peoples of Asia and Africa who have been struggling for decades to achieve their freedom and independence are liable through Communist machination to jump from the pan into the fire” (Republic of Indonesia Ministry of Foreign Affairs, *Asia-Africa Speaks from Bandung*, 85.).

⁷⁵³ *Ibid.*, 78.

diversities”, meaning “a State is free to live its own way—free from intimidation, subversion and domination”. This co-existence should not be limited to the “big five”, however:

Each and every state, no matter how small, is sovereign in its territory, sovereign over its people and sovereign in formulating its own policy without any pressure or intimidation by any stronger state. Our affairs, internal or external are ours. As small states, we refuse to be dominated or led this way or that. The choice is ours and we shall resist any intervention with all the resources at our command. This is how we understand co-existence.⁷⁵⁴

This pluralist vision of international relations—based on the fundamental principles of sovereign equality and non-intervention—was contrasted with great power privilege and its concomitant denial of self-determination through colonialism. It was not only traditional colonialism that was a threat to states' mastery of their own fates, however. Despite the “retreat of colonialism”, “new forms of attempt to the sovereignty and freedom of peoples” had appeared:

Where sword and guns are too dangerous to use any more, various invisible and deceiving weapons are tried. The more subtle aggressors of our times found new ways to achieve their aims re-inventing colonialism under new forms. Subversion, infiltration, economic or political interference under ideological disguises are thus the modern by-products of agonizing colonialism.⁷⁵⁵

In opening address of the conference, President Sukarno of Indonesia had warned:

Colonialism has also its modern dress, in the form of economic control, intellectual control, actual physical control by a small but alien community within a nation. It is a skilful and determined enemy, and it appears in many guises.⁷⁵⁶

A similar rejection of interference with the “way of life” of other states and their “pattern of government” was linked to the threat of a “new and more insidious form of imperialism that masquerades in the guise of liberation” was made by Pakistan.⁷⁵⁷ Libya spoke against “any attempt to interfere in the internal affairs of another country, and to force upon her, whether openly or secretly, a different way of life or system of government”. This kind of interference, “whatever its source might be”, would be “but another kind of colonialism”.⁷⁵⁸ The Independence Idea exhibited,

⁷⁵⁴ Ibid., 126.

⁷⁵⁵ Iran in *ibid.*, 79.

⁷⁵⁶ Ibid., 23.

⁷⁵⁷ Ibid., 109.

⁷⁵⁸ Ibid., 103.

then, the same idea of self-mastery as the Civil Idea and the Categorical Idea before it. Unlike those ideas of state freedom, however, the Independence Idea broadened the understanding of the agent to which that freedom was applicable, including colonial peoples; states-in-waiting that had been wrongfully denied their sovereignty by aggression.

There were, of course, tensions and inconsistencies in the positions of the delegates. As we have already seen, the Filipino advocacy of democracy and human rights would not sit easily with the emphasis on state self-determination. Even within single delegations, evidence of two different, and potentially conflicting, positions was discernible. In the opening speech of Egypt, Prime Minister Gamal Abdel Nasser stated one of five “essential” conditions for peace was the “full respect by all states of their international obligations”, which he went on to link to human rights and international judgement on states' traditionally 'domestic' affairs:

Under the Charter of the United Nations and the universal declaration of human rights the treatment by any state of any national or ethnic group has ceased to be a matter of domestic jurisdiction as certain states still advocate. It has become a question of international jurisdiction and a matter of world concern. Discrimination in any of its forms does not only constitute violation of state obligations, it impairs friendly relations among nations.⁷⁵⁹

Nasser went on to criticise the regime in South Africa for its “racial discrimination”, before concluding by stating two “fundamental principles” to guide international cooperation:

First: Every country has the duty to respect the political independence and territorial integrity of every other country and also to refrain from intervention in the affairs of other countries.

Second: Every country has the right to choose freely its political as well as economic systems⁷⁶⁰.

Alongside the references to rights, rejection of racial discrimination within states, and the fears voiced with respect to the potential for domestic tyranny, then, the delegates at Bandung articulated a strongly pluralist position that rejected interference with ways of life or systems of government within independent states. They proclaimed this mode of interaction both for relations between themselves—Indonesian President Sukarno called for “the 'Live and let live' principle and the 'Unity in Diversity' motto” to be the “unifying force” among the states present—and with

⁷⁵⁹ Ibid., 69.

⁷⁶⁰ Ibid., 71.

respect to other states. The Philippines was in a minority at Bandung in stressing the potential tensions between national independence and individual freedom, a trend which continued in the UN debates on self-determination that proceeded Bandung. The Philippines, making arguments reminiscent of those of US representatives,⁷⁶¹ was consistent in questioning whether the right to self-determination was best served by unchecked sovereign power; in the 12th Session of the General Assembly Third Committee, the Filipino representative at the UN asked, in a move bordering on heresy, “whether colonial peoples were not happier under the rule of an enlightened Power which had accepted specific obligations towards them than under a dictatorship of their own people”.⁷⁶²

Many of the other states that had been present at Bandung made it clear that they felt self-determination pertained to specifically foreign domination—both formal and informal—rather than the domestic arrangements of independent states. The Syrian delegate again tightly linked freedom, self-determination and sovereignty, rejecting the identification of self-determination with self-government, asserting that it rather “meant complete sovereign independence”. He stated that Syria would “interpret any provision of the covenants relating to self-determination in the sense of independence, since the aim of such a provision should be to enable the dependent peoples to free themselves from all forms of political, social and economic subjection”.⁷⁶³ The delegate went on to describe self-determination as a “purely colonial issue”, and claim it to be “the solemn duty of the United Nations, as an institution of free States, to promote the attainment of freedom, and not to perpetuate slavery by condoning the activities of France and other colonial Powers in Africa and Asia”.⁷⁶⁴ He went on to equate self-determination with rule by a non-alien sovereign power:

[T]he theory of sovereignty was based on the free, and not the enslaved society. The government was, theoretically, the servant of the people, who held the real authority; but that was not true of a subjugated people, since authority remained in the hands of their alien rulers....the theory of sovereignty was therefore equivalent to the theory of self-determination. Unfortunately, the colonial Powers had confused the concept of the sovereign with that of the landowner.⁷⁶⁵

In the Third Committee's 12th Session, the Saudi Arabian representative also emphasised the link between *alien* domination and the violation of self-determination, arguing that the right “implied

⁷⁶¹ The Philippines had, of course, been granted independence by the US in 1946 and the two states remained close allies.

⁷⁶² UNGA 3rd Committee, ‘A/C.3/SR.825’, 2 December 1957, 309.

⁷⁶³ UNGA 3rd Committee, ‘A/C.3/SR.639’, 19 October 1955, 76.

⁷⁶⁴ UNGA 3rd Committee, ‘A/C.3/SR.648’, 120.

⁷⁶⁵ Ibid.

that it was wrong for a country, nation or people to subdue another country, nation or people”.⁷⁶⁶ In the same session, Iraq explicitly distinguished self-determination from “political liberty”, the latter being “an individual right exercised within a sovereign State”.⁷⁶⁷ In the 13th Session, the Iranian representative was one of many throughout the debates that denied the right to secession, arguing for the primacy of sovereign rights. He asserted that self-determination “must not be used to undermine a sovereign Power's rights over its territory and national resources”.⁷⁶⁸ India reinforced the importance of state rights, arguing that it was “quite obvious” there were “limitations” to the right to self-determination of peoples, “in particular in the idea of national sovereignty and territorial integrity and in the rights of States under international law”.⁷⁶⁹

The distinction the anti-colonial states made between individual rights and the right to self-determination did not necessarily mean that they were unconcerned with individual liberties or democracy. It did show, however, a prominent fear that making the right to independence conditional was a sure way to open the door to the domination of strong states over weaker and a new form of subjection. The normative dilemma was captured by the Pakistani delegate in the UN Third Committee:

True, some peoples might be in danger of exchanging one master for another if they fought for self-determination; but their awareness of the right to equality among States, particularly of the equality of small and large States, had progressed so far that no power on earth was any longer capable of impeding their right to self-determination. To deny that right would be the greatest possible help to any aggressor bent on world domination.⁷⁷⁰

The position of the young African, Asian and Middle Eastern states on self-determination was fractured between a minority conception that emphasised the political liberty of the individual (articulated most strongly by the Philippines), and a conception that emphasised both the swift end of formal colonialism and also the on-going self-mastery of sovereign states guaranteed through sovereign equality and non-interference (as exemplified by the Syria and India). Even this majority interpretation was articulated through a prominent linking of state independence and individual rights, but the importance of the latter was not sufficient to justify the continued denial of

⁷⁶⁶ UNGA 3rd Committee, ‘A/C.3/SR.634’, 12 October 1955, 53.

⁷⁶⁷ UNGA 3rd Committee, ‘A/C.3/SR.827’, 3 December 1957, 320.

⁷⁶⁸ UNGA 3rd Committee, ‘A/C.3/SR.888’, 24 November 1958.

⁷⁶⁹ UNGA 3rd Committee, ‘A/C.3/SR.891’, 25 November 1958. India also attached a reservation to Article 1 of the Covenants, asserting that self-determination applied only to “peoples under foreign domination” (Cassese, *Self-Determination of Peoples*, 60.).

⁷⁷⁰ UNGA 3rd Committee, ‘A/C.3/SR.448’, 182.

sovereignty to colonial peoples, or interference in newly independent states. It was the unconditional granting of the freedom of statehood to dependent peoples that made the Independence Idea of state freedom radical. The understanding of what self-mastery meant for sovereign states in the Independence Idea was consistent with that of the Civil Idea; states were self-mastering if they were able to determine their own ways of life without the domination of other states. The contestation over self-determination in the UN was a struggle over which political communities that self-mastery was applicable to. The Civil Idea limited the scope of that self-mastery to existing sovereign states, leaving unchallenged the Paternalistic Idea's hierarchical understanding of peoples. The Independence Idea met this notion head on, rejecting the notion that the freedom of *any* people could be realised through enforced dependence. Over the course of the 1950s, anti-colonial states repeatedly used their voice in international affairs (which the Civil Idea of state freedom afforded all states) in order to make the argument for freedom through statehood and delegitimise the vestiges of the Paternalistic Idea. In winning that argument, the anti-colonial states comprehensively delegitimised the relations of dependence that were inherent in colonialism and played a crucial role in the collapse of the institution of empire.

Conclusion

In this chapter I have used debates about self-determination to explore how ideas of state freedom have been implicated in configurations of relations of dependence in the international system. My analysis has focused on two historical moments. First, I examined the attempt to reconstruct international order following World War I and the place that ideas of state freedom had in Wilsonian thinking. Second, I analysed debates about self-determination that took place in the UN in the 1950s, detailing the role ideas of state freedom played in arguments against colonialism and the arguments that were made to resist them.

In the first section I identified Woodrow Wilson's ideas about self-determination with the Paternalistic Idea of state freedom first encountered in Chapter Three. I showed that Wilson held as an ideal the notion that all states should be equal, and free to determine their own way of life without the domination of others. The state was associated with its people and the basic normative tenet of Wilson's thinking was that people should be self-governing. In theory, this delegitimised hierarchical relations of control between states. A fundamental element of the Paternalistic Idea of state freedom, however, was the notion, rooted in ideas of racial hierarchy, that not all peoples had

equally achieved the capacity for self-government. What the 'consent of the governed' or 'self-determination' meant for a political community was, therefore, variable. The self-mastery of a state whose population was unprepared for independence would be better realised under the tutelage of a more advanced state. The necessary condition for the realisation of state freedom was, therefore, that the most advanced nations took the responsibility to nurture civilisation in the less advanced.

The influence of these ideas was visible at the Paris Peace Conference, both in the decisions made at the conference and the processes by which they were made. At Versailles, the leaders of the four victorious big powers met in private to redraw the political map of the world. The dominant understanding at Versailles was, however, that they were doing so not in their own self-interest but in the interest of the political communities whose fates they were determining. The justification was that they took on the responsibility of decision-making not because they could, but because they ought to do so. The hierarchical dimension of the Paternalistic Idea justified both this great power primacy and the continued practice of 'tutelage' in the form of the Mandates System and the colonial empires of the victorious powers.

In the second section I detailed how the relations of dependency that were legitimated by the Paternalistic Idea (and perpetuated by the Civil Idea of state freedom at the San Francisco Conference) were challenged by the Independence Idea of state freedom. I showed how anti-colonial states used UN forums to contest the idea that the freedom of peoples could be realised through dependence, arguing that the freedom of statehood was applicable to all political communities regardless of their level of 'advancement'. The Independence Idea of state freedom held the same idea of state mastery as the Civil Idea; self-mastery meant the freedom of states to set their own direction without the domination of other states. Where it differed from the Civil Idea was in rejecting the ideas about racial superiority and inferiority the Civil Idea had inherited from the Paternalistic Idea. As a result, rather than understanding colonial peoples as wards, the Independence Idea conceived of them as political communities that had lost their independence through an act of aggression and that were now being held in bondage. For the freedom of states to be realised across the international system, therefore, it was necessary to end the practice of peoples being ruled by political authorities of alien racial and geographic provenance. As these ideas became dominant, they altered the perception of legitimate relations of control between states and contributed to the process of delegitimising relations of dependence. In this way, the Independence Idea of state freedom was implicated in the most significant transformation of the configuration of

political authority of the 20th century; the collapse of empire and the spread of sovereignty to a global scale.

Conclusion

The central concept of this thesis—state freedom—is given scant consideration by theorists of international relations. The limited amount of scholarly work to have addressed state freedom has focused almost exclusively on the early modern period and even within that small body of research sustained conceptual reflection is uncommon. The reason for this vacuum of research on state freedom is easy to guess; from the late eighteenth century onward, the terminology of state freedom is conspicuous by its absence from the practical discourse of international relations. World politics is saturated with discussion of the state in terms that resonate with freedom—independence or sovereignty, for example—but explicit reference to the liberty or freedom of states is rare. That was not always the case. As I showed in Chapter Two, conceptions of the freedom of states played an important role in the theoretical development of the modern state. Further state freedom was not restricted to the vocabulary of theorists. As the state emerged as a political entity distinct from transnational forms of authority, the preservation of its ‘liberty’ became a significant political value, implicated in the development of the balance of power as an ordering mechanism of European relations.

The principal claim made throughout this thesis is that the recession of the terminology of state freedom from the discourse of international relations does not mean ideas of state freedom have been absent. I have shown that although they have been implicit, ideas of state freedom have continued to evolve and condition international relations in important ways. In order to support that claim, in Chapter Two I made a theoretical argument about the relationship between terminology and ideas and addressed the methodological challenge of identifying implicit ideas of state freedom. I argued that discussions of freedom have tended to be about the necessary conditions for an agent to realise its self-mastery. The elements of i) agents, ii) the normative goal of self-mastery and iii) necessary conditions together constitute a grammar of debate about freedom which I employed in later chapters to guide my historical investigation. Having outlined my approach to what ideas of state freedom are about, I went on to make a theoretical argument about what those ideas *do* in international relations. Drawing on constructivist approaches to understanding the role of ideas in world politics, I argued that ideas of state freedom constitute part of the ideational structure of the international system. The core of this claim is that prevailing ideas of state freedom are shared, or intersubjective, ideas which have a mutually constitutive relationship with the human agents that are engaged in international politics. By holding particular beliefs about state freedom, and by behaving in accordance with them, human agents produce and reproduce dominant ideas of state freedom. They do so, however, embedded in a pre-existing ideational context (or structure), which

conditions their cognitive and behavioural horizons. In this way, ideational structures can both constrain agents' behaviour and shape their identities and interests.

The area of international politics where these dynamics can be seen to play out, I argued, is in the politics of legitimate inter-state relations of control. Different conceptions of state freedom permit or proscribe different configurations of relations of control. Ideas of state freedom are implicated, therefore, in the contestation that surrounds the ways in which states exert control and influence over one another. It is through this politics of legitimate relations of control that human agents are confronted with intersubjective ideas of state freedom. It is also the process through which they can be challenged, adapted and transformed. These moments of contestation are also the moments at which ideas of state freedom are defended and justified, and where their relationship with other ideas and principles is articulated. Ultimately, it is through the politics of legitimate relations of control that ideas of state freedom intersect with practice.

In Chapters Three to Five I provided historical support for this theoretical argument, reconstructing moments of debate about ideas of state freedom and showing how they were implicated in contestation over configurations of relations of control between states. The historical analyses I undertook were structured by three concepts: non-intervention, sovereign equality and self-determination. Debates surrounding these principles are examples of the discourses into which ideas of state freedom were absorbed as the terminology of state freedom dropped out of the international lexicon. They are also important loci of contestation about legitimate relations of control and allowed me to explore those relations along three axes: relations of domination, relations of authority and relations of dependency.

Chapter Three focused on two historical moments of contestation over the principle of non-intervention; the Concert of Europe in the early 19th century and debates in the Americas around the turn of the 20th century. In post-Napoleonic Europe I identified two ideas of state freedom; the Dynastic Idea and the Self-Help Idea. The Dynastic Idea was identifiable in the arguments made by and doctrines associated with the states of the Holy Alliance—Austria, Prussia and Russia. The state, for the Holy Alliance, was conceived of as being embodied in the person of the dynastically legitimated sovereign. States were self-mastering, therefore, if they had control over their domestic population. For the freedom of states to be realised, the dynastic sovereign order had to be maintained and preserved in the face of popular unrest across Europe. The Dynastic Idea legitimated, therefore, a joint commitment to military intervention wherever the 'popular principle'

created turbulence for the traditional order. This idea of state freedom existed in uneasy tension with the Self-Help Idea that was held by Great Britain. For Britain, the state was an individual moral order, each possessing its own characteristics and unique will. For this impersonal state to be self-mastering, it had to be self-reliant; its action had to be determined by its will, unhindered by general commitment to, or the dictation of, other states. Although the British position within the Concert of Europe is often characterised as being one of non-intervention, I showed that the Self-Help Idea legitimated intervention provided that a state had judged for itself what action was necessary to preserve its essential interests. What the Self-Help idea did proscribe was a general, collective interventionary right which would open the door to tyranny and threaten the freedom of states to act according to their own individual will. A limited degree of joint commitment was consistent with this idea of state freedom as long as its purpose was to preserve the balance of power and prevent the hegemony of a single state. However, a mutual guarantee to preserve the dynastic order jeopardised, rather than reinforced, the Self-Help Idea of freedom. The incompatible relations of control legitimated by the Dynastic and Self-Help ideas—manifested in different contours of permissible intervention and mutual obligation—were implicated in the withdrawal of Britain from the Concert system of great power cooperation.

In western hemisphere debates about intervention I reconstructed two further ideas of state freedom. In the Paternalistic Idea of state freedom, which was identifiable in the arguments of the US and some of its Latin American allies, the self-mastery of states was conceived of as responsibility; it was through meeting the standards of responsible self-governance that states could be said to be self-controlling. States did not meet this standard equally, and the Paternalistic Idea legitimated intervention on the grounds of preserving the freedom of American states from both European intervention and the excesses of irresponsible sovereignty. I showed how the Paternalistic Idea and the interventionary relations of control it legitimated were contested by the majority of Latin American states. Exhibiting a Categorical Idea of state freedom, Latin American states rejected both the notion of a hierarchy of states and the idea that self-mastery can be furthered through intervention. A state was an equal sovereign entity, possessing equal and inalienable sovereign rights to autonomy regardless of its empirical characteristics. Such sovereign entities were self-mastering only if each was free to determine its own way of life, absolutely free of external interference. This idea of state freedom could only be realised, therefore, if states possessed an absolute, unconditional right of non-intervention. I showed how Latin American states repeatedly made these arguments in diplomatic forums, gradually persuading the US to accept an absolute duty

of non-intervention and redefine its role in the hemisphere from one of a policeman to that of a good neighbour.

I then turned to relations of authority between states and, in Chapter Four, I examined the concept of sovereign equality. I showed how the idea of the equality of states has its intellectual origins in Vattel's Natural Idea of state freedom, which understood states as moral persons, bound by natural law but free to obey the dictates of their own conscience. I then turned to an analysis of ideas of state freedom in practice, focusing on two moments of contestation over the principle of sovereign equality: the second Hague Peace Conference, 1907, and the United Nations Conference on International Organisation that took place in San Francisco in 1945.

The negotiations at the Hague Peace Conference regarding the creation of a Permanent Court of Arbitral Justice were a further instance of contestation between the Paternalistic and Categorical Ideas of state freedom introduced in Chapter Three. I suggested that the hierarchical logic of the Paternalistic Idea legitimated the pre-eminence of the western powers in international legal instruments, a position that met determined opposition from smaller states. I analysed the ideas of the Brazilian delegate Ruy Barbosa and argued that they were consistent with Latin American arguments against intervention; states were self-mastering if they were free to determine their own way of life, and absolute rights were required if they were to be so. The unequal judicial representation proposed for the Permanent Court was deemed inadmissible because it betrayed the essence of arbitration—which was for states to choose their own judges—and thus implied the subjection of sovereignty to a necessary authority. Such subjection was a despoilment of the sovereignty that protected small states from the otherwise inevitable domination and control of the strong. The hierarchical aspect of the Paternalistic Idea and the strong equality of the Categorical Idea meant that they legitimated incompatible relations of authority among states and this tension, I argued, contributed to the failure to reach agreement in The Hague on the constitution of the Permanent Court.

I then showed that the incompatibility of the Paternalistic and Categorical Ideas were transcended at the San Francisco conference in 1945. In reaching agreement on the creation of the United Nations, states displayed a Civil Idea of state freedom. In this idea, self-mastery was understood in the same terms as in the Categorical Idea; determining one's own way of life free from the domination of other states. However, in contrast to the Categorical Idea, in the Civil Idea *subjection* to international law is necessary for this self-mastery to be realised. Moreover, the international juridical order must

be backed up by the kind of coercive force to demand compliance that Barbosa deemed a threat to freedom. The Civil Idea of state freedom legitimated, therefore, a degree of legalised hierarchy between states on the condition that this power was checked by the democratic participation of all states. Both of these conditions were accepted by small and medium powers as having been met in the institutions of the UN and the process through which it was created. The UN, and the relations of authority it legalised, was therefore legitimated as providing 'liberty under law'.

Through the lens of self-determination, Chapter Five explored relations of dependency in international relations, showing how ideas of state freedom formed part of arguments that both justified and discredited the institutionalised dependency of peoples. I analysed two instances of contestation about self-determination and legitimate relations of control: post-World War I reconstruction and 1950s debates regarding decolonisation. I argued that the Paternalistic Idea of state freedom permeated US President Wilson's understanding of self-determination which led him to extol the equality and self-government of states and peoples simultaneous to undertaking a great power role and advocating relations of dependency. While the ideal of self-mastery in the Paternalistic Idea was one of responsible, democratic states governing themselves as they saw fit, not all peoples were deemed equally prepared for self-government. I showed that the promotion of self-mastery was claimed to require, therefore, the supposedly benevolent influence of the civilised great powers in forms ranging from 'temporary interposition' through to potentially indefinite formal dependency.

I then showed that extreme elements of this Paternalistic Idea persisted in the UN in the form of Trust and Non-Self-Governing Territories. In the 1950s, however, the idea that freedom could be promoted by dependence was challenged by newly independent states. These states advanced arguments against colonialism that displayed an Independence Idea of state freedom, in which state self-mastery was conceived of as independence from 'alien' subjugation, both formal and informal. The idea that different races had attained different levels of 'advancement', and the concomitant idea that 'freedom' meant different things for different peoples, was rejected. Dependent peoples were victims of aggression, not beneficiaries of guardianship, and continued dependency was slavery, not freedom. Although colonial powers attempted to resist these arguments by invoking both the freedom of states and the freedom of peoples, they were unsuccessful in reasserting the credibility of arguments that relations of dependence could promote self-mastery. The arguments of anti-colonial states about state freedom contributed to a widespread delegitimation of colonialism,

which was confirmed when the UN declared the right of all dependent peoples to independence irrespective of their level of 'preparedness'.

Having summarised the principal findings of the historical chapters, it remains to reflect back on the research question that animated this thesis and ask: *How have understandings of state freedom evolved, and how have they conditioned international relations over the past three centuries?* In the remainder of this conclusion I will pull together the various strands of this thesis, empirical and theoretical, to give an answer to that question before going on to draw out some implications of the arguments I have made for the discipline of International Relations.

As should be clear from Chapters Three to Five, and the summary above, ideas of state freedom have undergone a continuing process of evolution and transformation. In given historical contexts, certain ideas of state freedom have been prominent, and perhaps even dominant. Nonetheless, even highly widespread and institutionally embedded ideas have been subject to contestation and transcendence. This evolution of ideas of state freedom has played out through contestation over legitimate relations of control, and it is through that contestation that ideas of state freedom can be said to have conditioned international relations.

At the broadest level, we have seen that since the consolidation of political authority into territorially bounded sovereign states there has been a general normative presumption that those states ought to be free. That does not mean that all states have been thought to be equally free, or that 'freedom' has been understood to mean the same thing for all states. Nonetheless, in all of the historical moments I have examined there has been a notable intersubjective belief in the freedom of states. This shared belief has generated a collective expectation that relations of control ought to be consistent with the freedom of states. Historically, however, there has been significant disagreement as to what constitutes that freedom. Because state freedom is concerned with the self-mastery of states and the conditions necessary for its realisation, and because that normative goal has been thought to be effected by factors external to the state, the ways in which a state is influenced and controlled by other states has a bearing on whether or not state freedom is realised. Different ideas about what constitutes state freedom—what it means for states to be free—have been consistent with, and incompatible with, different configurations of relations of control between states. Depending on the contours of ideas of state freedom, therefore, some configurations of relations of control have been understood as legitimate and others illegitimate.

This argument about how ideas of state freedom structure legitimate relations of control is my answer to the question of how ideas of state freedom have conditioned international relations over the past three centuries. This thesis, taken as a whole, is an argument that this structuring effect of ideas of state freedom is significant enough to warrant greater attention from international relations scholars. Another way of articulating the above argument is to say that ideas of state freedom have played a significant role in *constituting states as agents*. The kind of agent that the state is thought to be has obvious implications for what makes that agent free or unfree; if the state is conceived of as the expression of the will of the people, what self-mastery is understood to consist of for that state is likely to be different from if the state is equated with its sovereign monarch. At the same time, however, through the politics of legitimacy described above, ideas of state freedom are implicated in putting states in a particular configuration of social relations with other states. By virtue of their social position, states embody different social roles and are granted certain prerogatives and responsibilities while being denied others. In this way, ideas of state freedom can constitute states as particular kinds of agents imbued with particular kinds of social power.

The argument made in this thesis about the way in which ideas of state freedom have conditioned international relations is bounded and limited in significant ways. In Chapters Three to Five I examined particular historical contexts demonstrating both the presence of ideas of state freedom and that those ideas were implicated in debates regarding legitimate relations of control between states. I also connected those debates with state practices; I made links between arguments about what kind of interstate behaviours and relations are legitimate with historical developments in the international system. However, I make no deterministic causal claims in the Humean sense of ‘if A, then B’;⁷⁷¹ European empires did not collapse *because of* the Independence Idea of state freedom, for example, just as the Civil Idea of state freedom did not cause states to form the United Nations. Ideas of state freedom are not explanatory variables in this sense because they are not independent of the social object for which they are consequential, but rather constitutive of it.⁷⁷² That is not to claim, however, that ideas of state freedom are the only factor in the social construction of the state and interstate relations of control. Conceptions about what makes states free have not *determined* the legitimacy or illegitimacy of a particular relationship of control between states; rather, they have existed and had their structuring effect in relation to a broader and evolving constellation of principles and interests that shape international politics. The historical investigations of this thesis

⁷⁷¹ On Humean and other types of causation in IR, see Milja Kurki, *Causation in International Relations: Reclaiming Causal Analysis* (Cambridge; New York: Cambridge University Press, 2008).

⁷⁷² Alexander Wendt, ‘On Constitution and Causation in International Relations’, *Review of International Studies* 24, no. 05 (1998): 101–18.

do suggest, however, that ideas of state freedom have been an important, and understudied, element of that milieu.

As well as being bounded with respect to the way in which I claim ideas of state freedom to have conditioned international relations, the arguments made in this thesis are also limited with respect to their range. Although the scope of the investigation spans the past three centuries, my argument is limited to the historical contexts I directly analyse. Focusing on specific historical moments allowed me to cover a large historical sweep. It also enabled me to consider relations of control across several dimensions; relations of domination, authority and dependency. By limiting my historical investigations to discrete historical moments, I was able to marry a breadth of scope of the overall project with depth of analysis of the arguments employed by representatives of states. The detailed examination of the reasoning and justifications employed by states people in debates about non-intervention, sovereign equality and self-determination provided a window onto the constitutive effects of ideas of state freedom in specific contexts. This approach has precluded, however, both a detailed diachronic examination of state freedom and a deep analysis of state freedom in a truncated historical period across diverse geographical contexts and issue domains. As the first sustained investigation into state freedom, this thesis has been exploratory in nature and has been motivated by a desire to illuminate the concept in a broad variety of contexts. Potentially fruitful avenues for studying the concept further would be to examine the dynamism of ideas of state freedom, both through time and across different aspects of world politics. The method adopted here means I have abstracted from the processes of international relations and drawn out analytically distinguishable ideas of state freedom in order to make their structuring effect visible. That does not mean, however, that they should be understood as static or in any way separate from the practices in which they are embedded. As the contestation between different ideas reconstructed in this thesis shows, ideas of state freedom can develop and evolve in relation to one another and further work could be done to examine the processes by which they may not only structure but also continually *re-structure* legitimate relations of control.

Although I make no claim to be able to generalise the importance, or even presence, of ideas of state freedom beyond the boundaries of the historical cases presented in Chapters Three to Five, some conclusions regarding the dynamics of the evolution of state freedom can nonetheless be synthesised within the bounds of those cases focused on in this thesis. The first observation is that there is no simple pattern to be observed in the evolution of ideas of state freedom. As noted in Chapter One, Adam Watson saw in states systems “an inevitable tension between the desire for

order and the desire for independence".⁷⁷³ These conflicting goals pull in opposite directions and operate as a pendulum swinging from extreme independence at one end to empire at the other. He observed a tendency in systems of states towards elements of hegemony which limits states' freedom of action but also provides order. Although I use different conceptual tools to Watson and we have different primary focuses, there is nonetheless a degree of overlap in the phenomena in which we are interested; at root we are both concerned with the ways in which states' freedom of action is conditioned by their existence within a states system. However, while Watson sees a process of constriction and loosening along a spectrum of freedom of action and constraint, my historical research suggests a process of transformation and radical reinterpretation. *Pace* Berlin, the question states have repeatedly asked is not 'How much am I governed?'⁷⁷⁴ but rather 'How am I governed?'. Ideas of state freedom have been implicated in shifts in changing levels of obligation and freedom of action, shifts between greater and lesser hierarchy and equality, and in movement between pluralist and universal values, but these changes are not easily characterised as a general pattern.

What seems clear, however, is that there has been a persistent relationship between ideas of state freedom and international order. If Watson is correct that states systems are characterised by a pull toward some degree of integration and mutual commitment, then ideas of state freedom seem to be deeply implicated in that process. Ideas of state freedom are not, however, a counter-weight to the desire for order, pulling in the opposite direction. To be sure, at times ideas of state freedom have stymied attempts to increase levels of mutual commitment and centralised authority in the international system, as at the second Hague Peace Conference or in the Concert of Europe. This suggests that if efforts to collectively manage international politics are inconsistent with prevailing ideas of state freedom they will struggle to gain legitimacy and support. However, a recurring finding of this thesis is that the normative preference for the realisation of the freedom of states has supported, and even prompted, attempts to develop levels and types of mutual obligation and even subjection to authority in the international system. One prominent recurring feature in all of the ideas of state freedom identified in this thesis, then, is that they are distinct from license. Arguments in favour of state freedom have not been calls for lawlessness or the atomisation of international politics, but rather the opposite. Even the Categorical Idea of state freedom—in which states' freedom to control their own development without outside interference was most stridently

⁷⁷³ Adam Watson, *The Evolution of International Society: A Comparative Historical Analysis* (London; New York: Routledge, 1992), 14.

⁷⁷⁴ Isaiah Berlin, *Liberty: Incorporating Four Essays on Liberty*, ed. Henry Hardy (Oxford University Press, 2002), 30.

asserted—was bound up with high levels of international cooperation and multilateral management of international affairs. The arguments about intervention associated with the Categorical Idea of state freedom were made in multilateral forums whose purpose was to cooperatively manage interstate relations. Moreover, the arguments made were arguments about the *rights* of states and presupposed rule-bound relations based on positive international law. In this regard the Categorical Idea of state freedom is consistent with all of the ideas considered in this thesis; all of them reflect conceptions of international politics as being a rule-governed domain.

Although the historical investigations of this thesis are not characterised by a tension between freedom of action and order, the various ideas of state freedom do point toward two recurring tensions that, in the historical contexts examined, have repeatedly animated debate and disagreement about how relations of control ought to be configured. The most fundamental of these tensions, as I have already alluded to, is that between a basic understanding of states as autonomous entities and their existence as part of a system or society. The problematic that Vattel explored at length of how to reconcile the natural freedom of states with their obligations to one another can repeatedly be seen in debate about how international relations ought to be conducted. Although the historical moments examined here show variation regarding how the state has been understood, in all cases there has been an underlying view of states as entities that have the capacity to form preferences and desires, and to pursue them. The debates reconstructed in this thesis reveal, however, an acceptance that the will of states cannot be pursued unconditioned and unbound. Autonomous states need, therefore, to be subject to rules and principles that guide their behaviour and compromise their freedom to follow their own will and caprice. In the historical cases examined here, the recognition of the need to compromise the autonomy of states is manifested in attempts by states to consciously, and collectively, manage and shape international relations through principles, rules and institutions.

This thesis shows that there has been a high degree of variation in what ways and modes of managing international relations have, in different historical contexts, been seen to be consistent with the freedom of states. While Castlereagh saw collective security as a morally unacceptable fetter on the freedom of states, for Wilson, it was a crucial mechanism for the preservation of that freedom. For Barbosa, obedience to international law was a form of subjection, while for states at the San Francisco conference it meant liberty under law. Colonial powers justified the dependence of uncivilised peoples as a freedom-promoting guardianship, but newly independent states

Table 1 Evolving Ideas of State Freedom

Idea of State Freedom	Historical Context	Conception of the State	Conception of Self-Mastery	Necessary Conditions	Relations of Control Legitimated
Natural	Emmerich Vattel's <i>Law of Nations</i>	Abstract moral person	Following dictates of conscience	Sovereignty; balance of power	<i>Raison d'état</i>
Self-Help	Concert of Europe; Paris Peace Conference	Abstract moral person	Acting according to own judgement	Balance of power; self-help security system	Limited great power management; Intervention to protect essential interests
Dynastic	Concert of Europe	Embodied in dynastically legitimated sovereign	Control over population	Stability of dynastic order	Great power joint guarantee of dynastic order
Paternalistic	Early 19 th century Americas; Paris Peace Conference	Abstract moral person/Expression of will of the people	Acting responsibly	Benevolent influence of civilised powers	Variable depending on characteristics of 'people': Equality through to empire
Categorical	Early 19 th century Americas; 1907 Hague Peace Conference	Abstract moral person	Determining own way of life, free from interference	Consensual international law and absolute right to non-intervention	Absolute equality and non-intervention
Civil	San Francisco Conference; 1950s United Nations	Abstract moral person	Determining own way of life, free from interference	Liberty under international law guaranteed by great powers	Great Power special responsibilities; Active participation of all states; Empire
Independence	1950s United Nations; Bandung Conference	Abstract moral person/Expression of geographical, racial and cultural characteristics	Political independence and determining own way of life, free from interference	Absence of foreign rule and foreign interference	Independency of all territories

denounced that practice as a form of slavery. Moreover, the thesis shows that the (in-)consistency of international principles and institutions with ideas of state freedom is of import for whether or not they are accepted as legitimate.

The historical investigations conducted in earlier chapters also suggest that a second tension has repeatedly been significant in animating contestation between ideas of state freedom; the tension between state freedom and material power. As I have argued above, the tension between state

autonomy and societal obligations has been a recurring theme in debates about state freedom. The historical moments explored here suggest that this tension is made acute by differentials in material resources and military capability across states. A broad trend can be seen across the majority of ideas of state freedom identified here to limit the arbitrary power of materially strong states over weaker states. This is most clearly evident in the Categorical and Civil Ideas of freedom, both of which became prominent in assertions by smaller states of their right to determine their own destinies, free from the domination and interference of their larger neighbours. Similarly, the Independence Idea was articulated in arguments made by materially weak states against extreme levels of control by imperial cores over their colonial territories. In these cases, state freedom was invoked in arguments demanding reconfigurations of relations of control between states to constrain the exercise of coercive power by large states.

Relatedly, although espoused by materially powerful states, the Self-Help and Paternalistic Ideas of state freedom also implied the limitation of the arbitrary power of states in significant ways. The Self-Help Idea was an assertion of state freedom against the threat of domination by the hegemonic power of a single state or group of great powers, while the Paternalistic Idea suggested that the material power of strong states should be used only in the service of collective civilisation. At the same time, of course, the Self-Help and Paternalistic Ideas also permitted highly unequal relations of control. The Self-Help Idea not only justified intervention according to states' individual judgement as to its necessity, but also granted a privileged social position to the great powers to manage the balance of power in the European system. The Paternalistic Idea, although often accompanied by the language of equality, was complicit in the hierarchies of both empire and standards of civilisation. Although the Categorical Idea provided an unconditional challenge to hierarchy between states, the absolute equality it demanded, along with its absolute rejection of subjection to any authority, meant that it legitimated no remedy against states that might refuse to self-limit the exercise of their material power. The Civil Idea (and, later, the Independence Idea) provided a corrective to that lacuna, conceding special rights to the great powers but only to the extent that they served to prevent the arbitrary assertion of power of one state over others.

The above observations about the ways in which ideas of state freedom constitute states as agents and are implicated in collective organisation and management of international relations beg a question as to the relationship between ideas of state freedom and what is perhaps the discipline of IR's central concept: sovereignty. The orthodox narrative of sovereignty in the discipline of IR is well known. Sovereignty is said to have developed in 17th century Europe, gradually spread outward

across the globe and reigned as the organising principle of world politics ever since. In what Luke Glanville has recently called the “conventional story of sovereignty”, the advent of this principle “meant that states had a right to govern themselves however they chose, free from outside interference or intervention”.⁷⁷⁵ Sovereignty is like a “protective shell”⁷⁷⁶ or a “moat”⁷⁷⁷ guaranteeing the independence of states. The consequence of this sovereign organising principle is that the international system is anarchical rather than hierarchical; the distribution of political authority is flat, with no over-arching central authority. Reciprocal recognition of sovereignty becomes, then, the fundamental social institution of the international system, generating the basic principles of non-intervention and sovereign equality that regulate international life.

If sovereignty provides freedom from subjection to higher authority and freedom from external interference, a conception of state freedom seems, then, to be built-in to sovereignty; it both constitutes and guarantees the freedom of states. I do not dispute that this conception of sovereignty is intimately bound up with ideas of state freedom. My historical analyses have shown that sovereignty constitutes a prominent part of the lexicon of debate about state freedom. It is also surely no coincidence that the intellectual origin of the doctrines of non-intervention and sovereign equality is also the scholarly work that has most thoroughly and profoundly investigated the freedom of states—Vattel’s *The Law of Nations*. This thesis does, however, add to the body of research that calls into question the categorical nature of the ‘conventional story’ of sovereignty, embedding the authority of states within a broader and evolving constellation of institutions and values.⁷⁷⁸ The investigation conducted here shows that sovereignty and sovereign institutions do not exhaust the relations of control that constitute the international system. It also demonstrates that ideas about sovereignty—and related principles such as non-intervention and sovereign equality—are in part informed by ideas about the freedom of states. Crucially, there is much greater depth to ideas about state freedom than the atomisation and isolation of political communities. Ideas about state freedom are about states’ *interrelations*; dynamics of power, influence and control between them. They are about how political communities are organised and interact, and how those basic facts of political life relate to our political purposes and values.

⁷⁷⁵ Luke Glanville, *Sovereignty and the Responsibility to Protect: A New History*, 2014, 2.

⁷⁷⁶ Nicholas Greenwood Onuf, ‘Sovereignty: Outline of a Conceptual History’, *Alternatives: Global, Local, Political* 16, no. 4 (1991): 432.

⁷⁷⁷ Alan James, *Sovereign Statehood: The Basis of International Society* (Allen & Unwin, 1986), 39.

⁷⁷⁸ Glanville, *Sovereignty and the Responsibility to Protect*; Keene, *Beyond the Anarchical Society*; Reus-Smit, *The Moral Purpose of the State*; Biersteker and Weber, *State Sovereignty as Social Construct*.

For those that believe that ideas play a role in the constitution of the social world, the concepts that we use have weighty implications for how we see that world and the limits and boundaries of what is possible within it. The idea, and the institution, of sovereignty is surely an important one in shaping international life but, as this thesis demonstrates, it is not the only one. Looking at international politics from a different conceptual perspective—in this case that of state freedom—alters what we can and cannot see. Within the international system of sovereign states, questions of how states are organised and configured with respect to their relationships of control and authority continue to be disputed, debated and transformed. Not only is anarchy what states make of it,⁷⁷⁹ but anarchy is only one aspect of the structure of relations between states. If we want to fully understand that process, and the limits and opportunities within it, we need to recognise the important role played in it by ideas of state freedom.

⁷⁷⁹ A. Wendt, 'Anarchy Is What States Make of It: The Social Construction of Power Politics', *International Organization* 46, no. 02 (1992): 391–425.

Bibliography

- Adler, Emanuel. 'Seizing the Middle Ground: Constructivism in World Politics'. *European Journal of International Relations* 3, no. 3 (1997): 319–63.
- Albrecht-Carrié, René. *The Concert of Europe*. New York: Walker, 1968.
- Armstrong, Sinclair. 'The Doctrine of the Equality of Nations in International Law and the Relation of the Doctrine to the Treaty of Versailles'. *American Journal of International Law.*, 1920.
- AW Ward, and GP Gooch, eds. *The Cambridge History of British Foreign Policy, 1783-1919. 1815-1866 Vol 2*. Cambridge: Cambridge University Press, 1923.
- Baker, PJ. 'Doctrine of Legal Equality of States, The'. *Brit. YB Int'l L.* 4 (1923): 1.
- Bartelson, Jens. *A Genealogy of Sovereignty*. Cambridge University Press, 1995.
- Beaulac, Stéphane. 'Emer de Vattel and the Externalization of Sovereignty'. *Journal of the History of International Law* 5, no. 2 (2003): 237–92.
- Beitz, C. R. *Political Theory and International Relations*. Princeton University Press, 1999.
- Bemis, Samuel Flagg. *The Latin American Policy of the United States*. New York: Harcourt, Brace and Co., 1943.
- Berlin, Isaiah. *Liberty: Incorporating Four Essays on Liberty*. Edited by Henry Hardy. Oxford University Press, 2002.
- Bew, John. 'Intervention in the Wake of the Napoleonic Wars'. In *Humanitarian Intervention: A History*, edited by Brendan Simms and D. J. B. Trim. Cambridge University Press, 2011.
- Biersteker, Thomas J. 'State, Sovereignty and Territory'. In *Handbook of International Relations*, edited by Walter Carlsnaes, Thomas Risse-Kappen, and Beth A. Simmons. London: SAGE, 2002.
- Biersteker, T. J., and C. Weber. *State Sovereignty as Social Construct*. Cambridge University Press, 1996.
- Bock, Gisela, Quentin Skinner, Maurizio Viroli, and European Culture Research Centre, eds. *Machiavelli and Republicanism*. Cambridge [England]; New York: Cambridge University Press, 1990.
- Bukovansky, Mlada. *Legitimacy and Power Politics: The American and French Revolutions in International Political Culture*. Princeton, N.J.: Princeton University Press, 2002.
- Bukovansky, Mlada, Ian Clark, Robyn Eckersley, Richard M. Price, Christian Reus-Smit, and Nicholas J. Wheeler. *Special Responsibilities: Global Problems and American Power*. Cambridge; New York: Cambridge University Press, 2012.
- Bull, Hedley. *The Anarchical Society: A Study of Order in World Politics*. Houndmills, Basingstoke, Hampshire: Palgrave, 2002.
- Burke, Roland. *Decolonization and the Evolution of International Human Rights*. Philadelphia: University of Pennsylvania Press, 2010.
- Cabranes, J. A. 'Human Rights and Non-Intervention in the Inter-American System'. *Mich. L. Rev.* 65 (1966): 1147.
- Cassese, Antonio. *Self-Determination of Peoples: A Legal Reappraisal*. Cambridge University Press, 1999.
- Castlereagh, Viscount. 'Dispatch to Stewart'. In *Correspondence, Despatches, and Other Papers of Viscount Castlereagh, Second Marquess of Londonderry*, Vol. XII. London: Murray, 1853.
- Christov, Theodore. 'Liberal Internationalism Revisited: Grotius, Vattel, and the International Order of States'. *The European Legacy* 10, no. 6 (1 October 2005): 561–561 – 584.
- Clark, Ian. *Legitimacy in International Society*. Oxford: Oxford University Press, 2005.
- . *The Hierarchy of States*. Cambridge Studies in International Relations. Cambridge University Press, 1989.
- Clark, Ian, and Christian Reus-Smit, eds. 'Special Issue: Resolving International Crises of Legitimacy'. *International Politics* 44, no. 1 (May 2007).

- Crawford, Neta. *Argument and Change in World Politics: Ethics, Decolonization, and Humanitarian Intervention*. Cambridge University Press, 2002.
- Deudney, Daniel. *Bounding Power: Republican Security Theory from the Polis to the Global Village*. Princeton University Press, 2007.
- Deudney, Daniel, and G. Ikenberry. 'The Nature and Sources of Liberal International Order'. *Review of International Studies* 25, no. 02 (1999): 179–96.
- Devetak, Richard. 'Law of Nations as Reason of State: Diplomacy and the Balance of Power in Vattel's Law of Nations'. *Parergon* 28, no. 2 (2011): 105–28.
- . '"The Fear of Universal Monarchy": Balance of Power as an Ordering Practice of Liberty'. In *Liberal World Orders*, edited by Timothy Dunne and Trine Flockhart. Oxford University Press, 2013.
- Dickinson, Edwin. *The Equality of States in International Law*. Cambridge [u.a.]: Harvard Univ. Pr., 1920.
- Doyle, Michael W. 'A Few Words on Mill, Walzer, and Nonintervention'. *Ethics and International Affairs* 23, no. 4 (1 December 2009): 349–69.
- Doyle, Michael W. *Ways of War and Peace: Realism, Liberalism, and Socialism*. New York: Norton, 1997.
- Doyle, M. W. 'Kant, Liberal Legacies, and Foreign Affairs'. *Philosophy & Public Affairs*, 1983, 205–35.
- Economic and Social Council. 'E/SR.666', 30 July 1952.
- ECOSOC Commission on Human Rights. 'E/CN.4/SR.253', 30 April 1952.
- . 'E/CN.4/SR.254', 30 April 1952.
- . 'E/CN.4/SR.255', 9 May 1952.
- . 'E/CN.4/SR.256', 1 May 1952.
- . 'E/CN.4/SR.474', 7 May 1954.
- . 'E/CN.4/SR.475', 11 May 1954.
- Falk, R. A. 'United States and the Doctrine of Nonintervention in the Internal Affairs of Independent States, The'. *Howard LJ* 5 (1959): 163.
- Fenwick, Charles G. 'Intervention: Individual and Collective'. *The American Journal of International Law* 39, no. 4 (1945): 645–63.
- . 'The Authority of Vattel'. *American Political Science Review* 7, no. 03 (1913): 395–410.
- Finnemore, Martha. *The Purpose of Intervention : Changing Beliefs about the Use of Force*. Ithaca: Cornell University Press, 2003.
- Gilpin, Robert. *War and Change in World Politics*. Cambridge University Press, 1983.
- Glanville, Luke. *Sovereignty and the Responsibility to Protect: A New History*, 2014.
- Gong, Gerrit W. *The Standard of 'Civilization' in International Society*. Vol. 20. Clarendon Press Oxford, 1984.
- Hershey, Amos S. 'The Calvo and Drago Doctrines'. *The American Journal of International Law* 1, no. 1 (1907): 26–45.
- Herz, John. *The Nation-State and the Crisis of World Politics : Essays on International Politics in the Twentieth Century*. New York: D. McKay, 1976.
- Hobbes, Thomas. *Leviathan*. Edited by Richard Tuck. Cambridge University Press, 1996.
- Hobson, J. M. *The State and International Relations*. Cambridge Univ Pr, 2000.
- Hoffmann, Stanley. 'The Crisis of Liberal Internationalism'. *Foreign Policy*, no. 98 (1 April 1995): 159–77.
- Holsti, Kalevi Jaakko. *Peace and War: Armed Conflicts and International Order, 1648-1989*. Vol. 14. Cambridge University Press, 1991.
- House, Edward Mandell, and Charles Seymour. *What Really Happened at Paris: The Story of the Peace Conference, 1918-1919*. Charles Scribner's Sons, 1921.
- Hughes, Charles Evans, David Joseph Danelski, and Joseph S. Tulchin. *The Autobiographical Notes of Charles Evans Hughes*. Cambridge, Mass.: Harvard University Press, 1973.

- Hull, Cordell. *Report of the Delegates of the United States of America to the Seventh International Conference of American States, Montevideo, Uruguay, December 3-26, 1933*. Conference Series, no. 19. Washington: U.S. Govt. Print. Off., 1934.
<http://catalog.hathitrust.org/Record/008296095>.
- Hurd, Ian. *After Anarchy: Legitimacy and Power in the United Nations Security Council*. Princeton, N.J.: Princeton University Press, 2008.
- . 'Constructivism'. In *The Oxford Handbook of International Relations*, edited by Christian Reus-Smit and Duncan Snidal. Oxford University Press, 2008.
- Hurrell, A. 'Kant and the Kantian Paradigm in International Relations'. *Review of International Studies* 16, no. 03 (1990): 183–205.
- Hurrell, Andrew. 'Vattel: Pluralism and Its Limits'. In *Classical Theories of International Relations*, edited by Ian Clark and Iver B Neumann. Basingstoke ; London : New York, N.Y. : Oxford: Macmillan : in association with St. Antony's college(IS) ; St. Martin's press(IS), Macmillan ; St. Martin's press ; St. Antony's college, 1999.
- Ikenberry, G. John. *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars*. Princeton University Press, 2009.
- . 'Liberal Internationalism 3.0: America and the Dilemmas of Liberal World Order'. *Perspectives on Politics* 7, no. 01 (2009): 71–87.
- Ikenberry, G. John., and Anne-Marie. Slaughter. *Forging a World of Liberty Under Law: U.S. National Security in the 21st Century*. Princeton, N.J.: Woodrow Wilson School of Public and International Affairs, Princeton University, 2006.
- International Commission of Jurists. 'Projects to Be Submitted for the Consideration of the Sixth International Conference of American States'. *Supplement to the American Journal of International Law* 22 Special Number (1928): 354.
- International Conference of American States. 'Diario de La VI Conferencia Internacional Americana'. *Habana*, no. 34 (18 February 1928).
- Ishay, Micheline R. *The Human Rights Reader*. 2nd ed. New York; Oxford: Routledge, 2007.
- Jackson, Robert H. *Quasi-States: Sovereignty, International Relations, and the Third World*. Cambridge University Press, 1993.
- . 'The Weight of Ideas in Decolonization: Normative Change in International Relations'. In *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, edited by Judith Goldstein and Robert O. Keohane. Cornell University Press, 1993.
- James, Alan. *Sovereign Statehood: The Basis of International Society*. Allen & Unwin, 1986.
- Kant, I. *Kant: Political Writings*. Edited by H. S Reiss. Cambridge Univ Pr, 1991.
- Keck, M., and K. Sikkink. *Activists without Borders: Advocacy Networks in International Politics*. Ithaca: Cornell University Press, 1998.
- Keene, Edward. *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*. Cambridge, UK ; New York, NY, USA: Cambridge University Press, 2002.
- Keohane, Robert O. *After Hegemony: Cooperation and Discord in the World Political Economy*. Princeton, N.J: Princeton University Press, 1984.
- . 'International Liberalism Reconsidered'. In *The Economic Limits to Modern Politics*, edited by John Dunn. Murphy Institute Studies in Political Economy. Cambridge University Press, 1990.
- Kissinger, Henry Alfred. *A World Restored*. London: Gollancz, 1974.
- Klein, Robert A. *Sovereign Equality among States: The History of an Idea*. University of Toronto Press, 1974.
- Kotelawala, John. *An Asian Prime Minister's Story*. London: Harrap, 1956.
- Kurki, Milja. *Causation in International Relations: Reclaiming Causal Analysis*. Cambridge; New York: Cambridge University Press, 2008.
- Lake, David. *Hierarchy in International Relations*. Ithaca N.Y.: Cornell University Press, 2009.
- Langley, Lester D. *America and the Americas: The United States in the Western Hemisphere*. Athens: University of Georgia Press, 1989.

- Lansing, Robert. *The Peace Negotiations, a Personal Narrative*. Boston: Houghton Mifflin, 1921.
- Linklater, A. *The Transformation of Political Community: Ethical Foundations of the Post-Westphalian Era*. University of South Carolina Press, 1998.
- Lippmann, Walter. 'Second Thoughts on Havana'. *Foreign Affairs* 6, no. 4 (1928): 541.
doi:10.2307/20028641.
- MacCallum, G. C. 'Negative and Positive Freedom'. *The Philosophical Review* 76, no. 3 (1967): 312–34.
- Manela, Erez. *The Wilsonian Moment : Self-Determination and the International Origins of Anticolonial Nationalism*. Oxford University Press, 2007.
- Mantoux, Paul. *The Deliberations of the Council of Four (March 24-June 28, 1919): From the Delivery of the Peace Terms to the German Delegation to the Signing of the Treaty of Versailles*. Edited by Arthur Stanley Link. Vol. 2. 2 vols. Princeton University Press, 1992.
- . *The Deliberations of the Council of Four (March 24-June 28, 1919): To the Delivery to the German Delegation of the Preliminaries of Peace*. Edited by Arthur Stanley Link. Vol. 1. 2 vols. Princeton University Press, 1992.
- Mecham, J. Lloyd. *The United States and Inter-American Security, 1889-1960*. Austin: University of Texas Press, 1962.
- Merriam-Webster Dictionary. "'Independence'". Accessed 17 December 2014. <http://www.merriam-webster.com/dictionary/independence>.
- Miller, Kenneth E. 'John Stuart Mill's Theory of International Relations'. *Journal of the History of Ideas* 22, no. 4 (1 October 1961): 493–514.
- Moravcsik, Andrew. 'Liberal International Relations Theory: A Social Scientific Assessment'. *Weatherhead Center Working Paper Series* 01–02 (n.d.): 2001.
- . 'Taking Preferences Seriously: A Liberal Theory of International Politics'. *International Organization* 51, no. 04 (1997): 513–53.
- Morgenthau, Hans. *Politics among Nations: The Struggle for Power and Peace*. 6th ed. Random House USA Inc, 1988.
- Ninkovich, Frank. 'Theodore Roosevelt: Civilization as Ideology'. *Diplomatic History* 10, no. 3 (1986): 221–45.
- Onuf, Nicholas. *The Republican Legacy in International Thought*. Cambridge ; New York: Cambridge University Press, 1998.
- Onuf, Nicholas Greenwood. 'Sovereignty: Outline of a Conceptual History'. *Alternatives: Global, Local, Political* 16, no. 4 (1991): 425–46.
- Osiander, Andreas. *The States System of Europe, 1640-1990: Peacemaking and the Conditions of International Stability*. Oxford; New York: Clarendon Press ; Oxford University Press, 1994.
- Pettit, Philip. *Republicanism: A Theory of Freedom and Government*. Oxford University Press, USA, 2000.
- Philpott, D. *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations*. Princeton University Press, 2001.
- Pomerance, Michla. 'United States and Self-Determination: Perspectives on the Wilsonian Conception, The'. *Am. J. Int'l L.* 70 (1976): 1.
- Puente, J. 'Doctrines of Recognition and Intervention in Latin America'. *Tul. L. Rev.* 28 (1953): 313.
- Republic of Indonesia Ministry of Foreign Affairs. *Asia-Africa Speaks from Bandung*. Jakarta, 1955.
- Reus-Smit, C. *The Moral Purpose of the State: Culture, Social Identity, and Institutional Rationality in International Relations*. Princeton Univ Pr, 1999.
- Reus-Smit, Christian. 'Constructivism'. In *Theories of International Relations*, 3Rev Ed edition. Houndmills, Basingstoke, Hampshire ; New York: Palgrave Macmillan, 2005.
- . *Individual Rights and the Making of the International System*. Cambridge: Cambridge University Press, 2013.
- . 'The Concept of Intervention'. *Review of International Studies* 39, no. 05 (December 2013): 1057–76.

- . 'The Strange Death of Liberal International Theory'. *European Journal of International Law* 12, no. 3 (2001): 573–94.
- Rigo-Sureda, A. *Evolution of the Right to Self-Determination: A Study of United Nations Practice*. Leiden, The Netherlands: A. W. Sijthoff, 1973.
- Roosevelt, Franklin Delano. 'First Inaugural Address', 4 March 1933.
<http://www.bartleby.com/124/pres49.html>.
- Rose, G. 'Neoclassical Realism and Theories of Foreign Policy'. *World Politics* 51, no. 1 (1998): 144–72.
- Ruggie, J. G. 'Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis'. *World Politics: A Quarterly Journal of International Relations*, 1983, 261–85.
- Runciman, David. 'What Kind of Person Is Hobbes's State? A Reply to Skinner'. *Journal of Political Philosophy* 8, no. 2 (2000): 268–78.
- Scott, James Brown. *The American Institute of International Law: Its Declaration of the Rights and Duties of Nations*. Washington, D. C.: The American Institute of International Law, 1916.
<http://archive.org/details/cu31924007396611>.
- . *The Proceedings of the Hague Peace Conferences: Translation of the Official Texts : The Conferences of 1899 and 1907 Index Volume*. Vol. 2. 3 vols. Oxford University Press, 1921.
- . *The Proceedings of the Hague Peace Conferences: Translation of the Official Texts : The Conferences of 1899 and 1907 Index Volume*. Vol. 1. 3 vols. Oxford University Press, 1921.
- . 'The Sixth International Conference of American States'. *International Conciliation*, June 1928, 277–349.
- Seventh International Conference of American States. *First, Second and Eighth Committees: Minutes and Antecedents*. Montevideo, 1933.
- . *Plenary Sessions*. Montevideo, 1933.
- Sheinin, David. 'Argentina and the United States at the Sixth Pan American Conference (Havana 1928)'. *ISA Research Papers*, no. 24 (1991): 1–68.
- Simpson, Gerry J. *Great Powers and Outlaw States : Unequal Sovereigns in the International Legal Order*. Cambridge, UK; New York, NY: Cambridge University Press, 2004.
- . 'The Ethics of New Liberalism'. In *The Oxford Handbook of International Relations*, edited by Christian Reus-Smit and Duncan Snidal. Oxford University Press, 2008.
- Skinner, Quentin. 'A Genealogy of the Modern State'. *Proceedings of the British Academy* 162 (2009): 325–70.
- . 'A Third Concept of Liberty'. *Proceedings of the British Academy* 11 (2002): 237–68.
- . 'Language and Political Change'. In *Political Innovation and Conceptual Change*, edited by Terence Ball, James Farr, and Russell L Hanson. Cambridge; New York: Cambridge University Press, 1989.
- . *Liberty before Liberalism*. Cambridge University Press, 1998.
- . 'The State'. In *Political Innovation and Conceptual Change*, edited by Terence Ball, James Farr, and Russell L Hanson. Cambridge; New York: Cambridge University Press, 1989.
- . *Visions of Politics. Volume 1, Regarding Method*. Cambridge; New York: Cambridge University Press, 2002.
- . *Visions of Politics, Volume 2, Renaissance Virtues*. Cambridge: Cambridge University Press, 2002.
- Taylor, Isaiah. 'What's Wrong With Negative Liberty?'. In *The Idea of Freedom: Essays in Honour of Isaiah Berlin*, edited by Alan Ryan. Oxford: Oxford U.P., 1979.
- The Avalon Project, ed. 'Treaty of Westphalia',
http://avalon.law.yale.edu/17th_century/westphal.asp.
- 'The Covenant of the League of Nations'. League of Nations, 28 April 1919.
http://avalon.law.yale.edu/20th_century/leagcov.asp.
- Thomas, Ann Van Wynan, and AJ Thomas. *Non Intervention: The Law and Its Import in the Americas*. Dallas: Southern Methodist University Press, 1956.

- UNGA 3rd Committee. 'A/C.3/SR.361', 7 December 1951.
- . 'A/C.3/SR.364', 10 December 1951.
- . 'A/C.3/SR.365', 11 December 1951.
- . 'A/C.3/SR.366', 12 December 1951.
- . 'A/C.3/SR.370', 19 December 1951.
- . 'A/C.3/SR.371', 20 December 1951.
- . 'A/C.3/SR.444', 13 November 1952.
- . 'A/C.3/SR.445', 14 November 1952.
- . 'A/C.3/SR.446', 17 November 1952.
- . 'A/C.3/SR.447', 18 November 1952.
- . 'A/C.3/SR.448', 18 November 1952.
- . 'A/C.3/SR.450', 20 November 1952.
- . 'A/C.3/SR.451', 21 November 1952.
- . 'A/C.3/SR.452', 22 November 1952.
- . 'A/C.3/SR.456', 26 November 1952.
- . 'A/C.3/SR.457', 28 November 1952.
- . 'A/C.3/SR.458', 28 November 1952.
- . 'A/C.3/SR.634', 12 October 1955.
- . 'A/C.3/SR.639', 19 October 1955.
- . 'A/C.3/SR.644', 26 October 1955.
- . 'A/C.3/SR.648', 31 October 1955.
- . 'A/C.3/SR.823', 28 November 1957.
- . 'A/C.3/SR.825', 2 December 1957.
- . 'A/C.3/SR.826', 2 December 1957.
- . 'A/C.3/SR.827', 3 December 1957.
- . 'A/C.3/SR.888', 24 November 1958.
- . 'A/C.3/SR.890', 24 November 1958.
- . 'A/C.3/SR.891', 25 November 1958.
- United Nations. 'Charter of the United Nations', 26 June 1945.
<http://www.un.org/en/documents/charter/chapter1.shtml>.
- . *Documents of the United Nations Conference on International Organization, San Francisco, 1945*. Vol. 1. 22 vols. London; New York: United Nations Information Organization, 1945.
- . *Documents of the United Nations Conference on International Organization, San Francisco, 1945*. Vol. 6. 22 vols. London; New York: United Nations Information Organization, 1945.
- . *Documents of the United Nations Conference on International Organization, San Francisco, 1945*. Vol. 3. 22 vols. London; New York: United Nations Information Organization, 1945.
- . *Documents of the United Nations Conference on International Organization, San Francisco, 1945*. Vol. 11. 22 vols. London; New York: United Nations Information Organization, 1945.
- . 'International Covenant on Civil and Political Rights', 16 December 1966.
<http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- . 'International Covenant on Economic, Social and Cultural Rights', 16 December 1966.
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.
- United States. *Report of the Delegates of the United States of America to the Sixth International Conference of American States*. Washington: US Government print off, 1928.
<http://catalog.hathitrust.org/Record/000277745>.
- United States, United Kingdom, Soviet Union, and China. 'Moscow Declaration', October 1943.
<http://avalon.law.yale.edu/wwii/moscow.asp>.
- Vattel, Emmerich de. *The Law of Nations, Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*. Indianapolis: Liberty Fund Inc, 2008.
- Vincent, R. J. 'Hedley Bull and Order in International Politics'. *Millennium - Journal of International Studies* 17, no. 2 (6 January 1988): 195–213.

- . *Human Rights and International Relations*. Cambridge University Press, 1986.
- . *Nonintervention and International Order*. Princeton University Press, 1974.
- Waltz, Kenneth N. *Theory of International Politics*. Addison-Wesley Publishing, 1979.
- Watson, Adam. *The Evolution of International Society: A Comparative Historical Analysis*. London; New York: Routledge, 1992.
- Weber, Cynthia. *Simulating Sovereignty: Intervention, the State, and Symbolic Exchange*. Cambridge University Press, 1995.
- Weiner, E. S. C., and J. A. Simpson. *The Oxford English Dictionary*. Oxford: Clarendon Press; Oxford University Press, 2004.
- Wellington, Arthur Wellesley of. *Supplementary Despatches, Correspondence, and Memoranda*. Murray, 1865.
- Wendt, A. 'Anarchy Is What States Make of It: The Social Construction of Power Politics'. *International Organization* 46, no. 02 (1992): 391–425.
- . *Social Theory of International Politics*. Cambridge University Press, 1999.
- Wendt, A. E. 'The Agent-Structure Problem in International Relations Theory'. *International Organization* 41, no. 03 (1987): 335–70.
- Wendt, Alexander. 'On Constitution and Causation in International Relations'. *Review of International Studies* 24, no. 05 (1998): 101–18.
- Wheeler, Nicholas J. *Saving Strangers: Humanitarian Intervention in International Society*. Oxford: Oxford University Press, 2003.
- Wight, Colin. *Agents, Structures and International Relations: Politics as Ontology*. Cambridge, UK; New York: Cambridge University Press, 2006.
- Wight, Martin. 'Balance of Power and International Order'. In *The Bases of International Order: Essays in Honour of C.A.W. Manning*, edited by Alan James. London; New York: Oxford University Press, 1973.
- . 'Western Values in International Relations'. In *Diplomatic Investigations: Essays in the Theory of International Politics*, edited by Herbert Butterfield and Martin Wight. London: Allen & Unwin, 1966.
- Wilson, Woodrow. 'Address Delivered at the First Annual Assemblage of the League to Enforce Peace'. Accessed 29 May 2013. <http://www.presidency.ucsb.edu/ws/?pid=65391>.
- . 'Address of the President of the United States to the Senate - World War I Document Archive'. Accessed 29 May 2013. http://wwi.lib.byu.edu/index.php/Address_of_the_President_of_the_United_States_to_the_Senate.
- . 'President Wilson's Address, February 11, 1918'. Accessed 30 May 2013. <http://www.gwpda.org/1918/wilpeace.html>.
- . 'President Woodrow Wilson's Fourteen Points'. Accessed 29 May 2013. http://avalon.law.yale.edu/20th_century/wilson14.asp.
- . 'Woodrow Wilson: Second Inaugural Address.' Accessed 30 May 2013. http://xroads.virginia.edu/~DRBR/wilson_2.html.
- Wohlforth, William. 'Realism'. In *The Oxford Handbook of International Relations*, edited by Christian Reus-Smit and Duncan Snidal. Oxford University Press, 2008.